PART V
RULES FOR COURTS OF LIMITED JURISDICTION

ADMINISTRATIVE RULES FOR COURTS OF LIMITED JURISDICTION (ARLJ)

TABLE OF RULES

RULE 1

(RESCINDED)

RULE 2
SCOPE OF RULES

These rules shall govern the procedure of civil, criminal, and infraction cases in all courts of limited jurisdiction inferior to the superior court. They shall be construed to secure the just, speedy, and inexpensive determination of every action. Failure to set forth herein any provisions of common law or statute, not inconsistent with these rules, shall not be construed as an implied repeal thereof.

RULE ARLJ 3
DEFINITION OF TERMS

As used in these rules, unless the context clearly requires otherwise:

(1) "Court" means any court inferior to the superior court.

(2) "Judge" shall include every judicial officer authorized, alone or with others, to hold or preside over any court of limited jurisdiction, or any court inferior to the superior court which may be hereinafter established.

(3) "Oaths" include affirmations.

(4) "Prosecuting Attorney" or "prosecutor" includes deputy prosecuting attorneys, and city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute or court rule.

(5) "Offenses against the State" shall, wherever appropriate, include offenses against a county or a city by virtue of violation of an ordinance or resolution.

(6) "City" shall be construed to include towns.

(7) "State", whenever appropriate, shall include a city or town.

[Amended effective September 1, 1989.]

ARLJ 4
CODE OF JUDICIAL CONDUCT

(1) The Code of Judicial Conduct (CJC) as adopted by the Supreme Court of Washington shall apply to the judge of each court subject to these rules, whether or not such judge has been admitted to the Bar. It shall be the obligation of each such judge to conduct his or her court and his or her professional and personal relationships in accordance with the same standards as are required of judges of courts of record, except that CJC Canon 5(F), prohibiting judges from practicing law, shall not apply to attorney-judges of courts of limited jurisdiction who have been specifically authorized by statute to practice law.

(2) The taking of photographs in the courtroom or radio or television broadcasting or transmitting of judicial proceedings from the courtroom during the progress of judicial proceedings shall be governed by GR 16.

[Adopted effective July 1, 1963; amended effective October 1, 2002.]

RULE ARLJ 5
PRESIDING JUDGE, MULTIPLE JUDGE COURT DISTRICT, MULTIPLE DISTRICT COUNTIES

[REPEALED]

[Amended effective May 6, 1988; September 1, 2000; Repealed effective April 30, 2002.]

RULE 6
RECORDS: SEPARATE DOCKETS--CONTENTS

(a) Every court having criminal jurisdiction shall keep such records as are required by law.
(b) Separate dockets shall be kept for criminal, traffic, civil, and small claims actions. The required entries within the traffic and criminal dockets shall be as required on the "Complaint/Citation Docket Form" prescribed in CrRLJ 2.1. In civil and small claims dockets there shall be entered:
(1) The title of all actions;
(2) The object of the action or proceeding;
(3) All filing, return, trial, and appearance dates;
(4) An abstract of every motion, rule, order and decision of the court;
(5) Every continuance, and for whom granted;
(6) All demands for a trial by jury, and by whom;
(7) The names of the jurors who appear and are sworn, the names of witnesses sworn, and at whose request;
(8) An abstract of the verdict of the jury when received and other proceedings in connection with the jury;
(9) An abstract of the judgment of the court and the amount thereof, and all costs granted in connection therewith;
(10) The time of issuing execution, and an account of the debt and costs, and the fees due to each person separately;
(11) The fact of a notice of appeal and the date thereof;
(12) Satisfaction of the judgment, or any money paid thereon and the date thereof;
(13) Such other entries as may be material.

{Reserved}.

RULE 8
REPORTING OF CRIMINAL CASES

(a) Report of Disposition. Within 5 court days after the disposition by a court of limited jurisdiction of a felony or gross misdemeanor charge or misdemeanor charges which have been reported to the Washington State Patrol Section on Identification, whether the disposition be a plea of guilty or by deferral or suspension of imposition of sentence, or a finding of guilty, or not guilty after trial, or by a dismissal of the charge, the court clerk shall report such disposition to the Section on a disposition form approved by the Administrator for the Courts. When a sentence has been deferred or suspended, the report to the Section shall indicate the length of time over which such suspension or deferral is to be effective. At the conclusion of the time period for deferral or suspension of sentence, the court clerk shall forward an amended disposition form to the Section showing the actual disposition of the case.

(b) Report of Appeal. If an appeal is taken from the disposition made by a court of limited jurisdiction, the court clerk shall, within 5 court days of the taking of the appeal, notify the Section on an amended disposition form. In the event that the result of any proceeding changes or otherwise makes inaccurate the information forwarded on the original disposition report, the court clerk shall prepare and forward to the Section a supplemental disposition report on a form approved by the Administrator for the Courts indicating thereon the information necessary to correct the current status of the disposition of charges against the subject maintained in the records of the Section.

RULE ARLJ 9
DISCLOSURE OF RECORDS

(a) Public Records. Unless the trial judge rules otherwise in a particular case, the following are considered public records and may be viewed and copied by the public:

(1) Court pleadings;

(2) Dockets, both civil and criminal, regardless of the current status of the proceeding;

(3) Indexes to civil and criminal cases;

(4) Tape recordings of court proceedings;

(5) Search warrants, affidavits, and inventories, after execution and return of the warrant.

(b) Private Records. The following are considered exempt from disclosure unless they have been admitted into evidence, incorporated into a court pleading, or are the subject of a stipulation on the record which places them into public record:

(1) Witness statements and police reports;

(2) Presentence reports and reports related to compliance with conditions of sentence;

(3) Copies of driving records or criminal history records subject to RCW 10.97;

(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation.

(c) Quasi-Public Documents. The following are not subject to public review, but are subject to review by the defendant and the defendants lawyer:

(1) Witness statements;

(2) Presentence reports and reports related to compliance with conditions of sentence;

(3) Copies of driving records or criminal history records subject to RCW 10.97;

(4) Correspondence received by the court regarding

sentencing and compliance with the terms of probation, except when the information is provided on the condition it remain confidential or when a finding of good cause is made for its confidentiality.

(d) Court Assistance.

(1) Court facilities are available to the public to assist in disclosure, subject to local court rule.

(2) For security purposes, the court may require identification from the reviewing party.

(e) Judicial Review. To assure that only public records are reviewed by the public, judicial review of disclosure may be requested by the prosecuting authority, defendant, court clerks, or other interested parties. The court may withhold dissemination until a hearing may reasonably be held. Following the hearing, the court may make such restrictive orders as are necessary.

(f) Statutes Not Superseded. Nothing in this rule shall be construed to supersede existing statutes or subsequent amendmentsthereto.

[Adopted effective September 1, 1987.]

ARLJ 10

RULE 10

CASE INFORMATION COVER SHEET

(1) Each new civil filing, except in infraction cases, shall be accompanied by a Case Information Cover Sheet prepared and submitted by the plaintiff. The minimum requirements of this Case Information Cover Sheet shall be established by the Court Management Council in coordination with the Office of the Administrator for the Courts. Any additional case flow information deemed necessary for the management of cases by a court must be approved by the Office of the Administrator for the Courts.

(Effective September 1, 1999.)

ARLJ 11
Misdemeanant Probation Department

RULE 11 PROBATION DEPARTMENT

RULE 11.1 DEFINITION

A misdemeanant probation department, if a court elects to establish one, is an entity that provides services designed to assist the court in the management of criminal justice and thereby aid in the preservation of public order and safety. This entity may consist of probation officers and probation clerks. The method of providing these services shall be established by the presiding judge of the local court to meet the specific needs of the court.

RULE 11.2 QUALIFICATIONS AND CORE SERVICES OF PROBATION DEPARTMENT PERSONNEL

(a) Probation Officer Qualifications.

(1) A minimum of a bachelor of arts or bachelor of science degree that provides the necessary education and skills in dealing with complex legal and human issues, as well as competence in making decisions and using discretionary judgment. A course of study in sociology, psychology, or criminal justice is preferred.

(2) Counseling skills necessary to evaluate and act on offender crisis, assess offender needs, motivate offenders, and make recommendations to the court.

(3) Education and training necessary to communicate effectively, both orally and in writing, to interview and counsel offenders with a wide variety of offender problems, including but not limited to alcoholism, domestic violence, mental illness, sexual deviancy; to testify in court, to communicate with referral resources, and to prepare legal documents and reports.

(4) Anyone not meeting the above qualifications and having competently held the position of probation officer for the past two years shall be deemed to have met the qualifications.

(b) Probation Officer - Core Services.

(1) Conduct pre/post-sentence investigations with face to face interviews and extensive research that includes but is not limited to criminal history, contact with victims, personal history, social and economic needs, community resource needs, counseling/treatment needs, work history, family and employer support, and complete written pre/post-sentence reports, which includes sentencing recommendations to the court.

(2) For offenders referred to the misdemeanant probation department, determine their risk to the community using a standardized classification system with a minimum of monthly face to face interviews for offenders classified at the highest level.

(3) Evaluate offenders' social problems, amenability to different types of treatment programs, and determine appropriate referral.

(4) Supervise offenders with face to face interviews depending on risk classification system.

(5) Oversee community agencies providing services required of offenders with input to the judicial officer (e.g. alcohol/drug, domestic violence, sexual deviancy, and mental illness).

(6) Other Duties. The core services listed under both probation officer and probation clerk are not meant to exclude other duties that may be performed by either classification of employee or other court clerical staff, such as record checks, calendaring court proceedings, and accounting of fees.

(c) Probation Clerk Qualifications.

(1) High school or equivalent diploma.

(2) Efficient in all facets of basic clerical skills including but not limited to keyboarding, computer familiarity and competence, filing, and positive public interaction.

(3) Above average ability in dealing with stress and difficult clients.

(4) Ability to complete and perform multi-task assignments.

(d) Probation Clerk - Core Services.

(1) Monitor compliance of treatment obligations with professional treatment providers.

(2) Report offender non-compliance with conditions of sentence to the court.

(3) Coordinate treatment referral information, and monitor community agencies for statutory reporting compliance.

(4) Anyone not meeting the above qualifications and having held the position of probation clerk for the past two years shall be deemed to have met the qualifications.

(5) Other Duties. The core services listed under both probation officer and probation clerk are not meant to exclude other duties that may be performed by either classification of employee or other court clerical staff, such as record checks, calendaring court proceedings, and accounting of fees.

RULE 11.3 STATUTORY PROBATION SERVICE FEES TO BE USED FOR PROBATION SERVICES

All positions, which are funded by statutory probation service fees, shall be limited to working with individuals or cases who are on probation. Any additional funds raised from statutory probation services fees beyond what is necessary to fund the positions in the probation department shall be used to provide additional levels of probation services.

[Adopted effective September 1, 2001.]

ARLJ 12
REGISTRATION BY COURTS OF LIMITED JURISDICTION

(1) All courts of limited jurisdiction shall register with the Administrative Office of the Courts. The registration shall include the name of the court, address, telephone number and the names of judicial officers and the court clerk or administrator. The registration shall include the days of the week and the hours the court is open for business to the public. The official registration must be updated annually by each court on or before July 1 and also within 30 days from the date of any changes in the information previously supplied to the Administrative Office of the Courts.

(2) The failure of a court to register as required by this rule shall not affect in any way the power or authority of a court.

[Adopted effective September 1, 2002; amended effective November 8, 2005.]

ARLJ 13
LIMITED JURISDICTION COURTS ARE REQUIRED TO RECORD ALL PROCEEDINGS ELECTRONICALLY

a) Generally. All limited jurisdiction courts shall make an electronic record of all proceedings and retain the record for at least as long as the record retention schedule dictates.

b) Nonelectronic Record in Emergency. In the event of an equipment failure or other situation making an electronic recording impossible, the court may order the proceeding to be recorded by nonelectronic means. The nonelectronic record must be made at the court's expense, and in the event of an appeal, any necessary transcription of the nonelectronic record must be made at the court's expense.

[Adopted effective October 1, 2002.]

RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (RALJ)

TABLE OF RULES

RALJ 1.1
SCOPE OF RULES

(a) Proceedings Subject to Rules. These rules establish the procedure, called appeal, for review by the superior court of a final decision of a court of limited jurisdiction, subject to the restrictions defined in this rule.

(b) These rules do not apply to the de novo review of a decision of a judge who is not admitted to the practice of law in Washington and do not apply to the de novo review on the record of a decision of a small claims court operating under RCW 12.40. The procedures for review of these

decisions are set forth in CRLJ 73 and 75.

(c) Statutory Writs Retained. These rules do not supersede and do not govern the procedure for seeking review of a decision of a court of limited jurisdiction by statutory writ.

(d) Application to Civil and Criminal Proceedings. Each rule applies to both civil and criminal proceedings, unless a different application is intended.

(e) Superseding Effect of Rules. These rules supersede all statutes and rules covering the procedure for review in the superior court of a decision of a court of limited jurisdiction to which these rules apply, unless one of these rules specifically indicates to the contrary.

(f) Effect of Subsequent Legislation. If a statute in conflict with a rule is enacted after these rules become effective and that statute does not supersede the conflicting rule by direct reference to the rule by number, the rule applies unless the rule specifically indicates that statutes control. If a statute in conflict with a rule is enacted after these rules become effective and that statute does supersede the conflicting rule by direct reference to the rule by number, the statute applies until such time as the rule may be amended or changed by the Supreme Court through exercise of its rulemaking power.

[Amended effective October 30, 2001; September 1, 2004.]

RALJ 1.2
INTERPRETATION AND APPLICATION OF RULES

(a) Interpretation. These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits.

(b) Application of Rules. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules, except as provided in rules 10.2 and 10.3(c). A party's right to proceed further in an appeal may be conditioned on compliance with the terms of a sanction order under rule 10.1.

[Amended effective September 1, 2002.]

RULE 2.1
WHO MAY APPEAL

(a) Appeal. Only an aggrieved party may appeal.
(b) Cross Review. Cross review means review initiated by a respondent in an appeal. A party seeking cross review must file a notice of appeal within the time allowed by rule 2.5(c).

RALJ 2.2
WHAT MAY BE APPEALED

(a) Final Decision.

(1) A party may appeal from a final decision of a court of limited jurisdiction to which these rules apply under rule 1.1(a), except a decision in a mitigation hearing under RCW 46.63.100 and IRLJ 2.6(b), or a mitigation decision on written statement under IRLJ 2.6(c).

(2) For the purposes of these rules, a final decision includes (A) an order granting or denying a motion for new trial, reconsideration, or amendment of judgment, and (B) an order granting or denying arrest of a judgment in a criminal case.

(b) Amount in Controversy. Statutes control limitations on appeal based on the amount in controversy.

(c) Appeal by State or a Local Government in Criminal Case. The State or local government may appeal in a criminal case only from the following decisions of a court of limited jurisdiction and only if the appeal will not place the defendant in double jeopardy:

(1) Final Decision, Except Not Guilty. A decision which in effect abates, discontinues, or determines the case other than by a judgment or verdict of not guilty, including but not limited to a decision setting aside, quashing, or dismissing a complaint or citation and notice to appear, or a decision granting a motion to dismiss under CrRLJ 8.3(c).

(2) Pretrial Order Suppressing Evidence. A pretrial order suppressing evidence, if the trial court expressly finds that the practical effect of the order is to terminate the case.

(3) Arrest or Vacation of Judgment. An order arresting or vacating a judgment.

(4) New Trial. An order granting a new trial.

[Amended effective September 1, 2008.]

RULE 2.3
WHERE TO APPEAL--CHANGE OF VENUE

(a) Where To Appeal. A party must seek review of a decision in a criminal case in the superior court of the county in which the offense allegedly occurred if the court of limited jurisdiction from which the appeal is taken is located in a joint justice court district. In all other cases, a party must seek review in the superior court for the county in which the court of limited jurisdiction from which the appeal is taken is located.

(b) Change of Venue. If a party seeks review in the wrong superior court, the venue of the appeal shall be changed to the proper superior court on motion of a party or on the initiative of the superior court.

RULE 2.4
HOW TO INITIATE AN APPEAL

(a) Review Initiated by Filing Notice of Appeal. A party appealing a decision subject to these rules must file a notice of appeal in the court of limited jurisdiction within the time provided by rule 2.5. This is the only jurisdictional requirement for an appeal.

(b) Filing Fee. The first party to file a notice of appeal shall, at the time the notice is filed, pay the statutory filing fee to the clerk of the court of limited jurisdiction in which the notice is filed, unless the party filing the notice is excused from paying a filing fee by statute or by the constitution.

(c) Notice and Service. A party filing a notice of appeal shall immediately serve a copy of the notice on all other parties. The clerk of the court of limited jurisdiction shall immediately upon filing of a notice of appeal and payment of the filing fee, if required, file a copy of the notice with the superior court.

RULE 2.5
TIME ALLOWED TO INITIATE APPEAL BY FILING NOTICE

(a) Time Allowed To File Notice of Appeal. Except as provided in section (c), a notice of appeal must be filed within 30 days after the date of entry of the final decision which the party filing the notice seeks to appeal.

(b) Date of Entry Defined. If the final decision of the court of limited jurisdiction is oral and evidenced solely by a writing in the court record, the date of entry is the date the writing was placed in the record. If the final decision is by a writing signed by the court of limited jurisdiction, the date of entry is the date of delivery of the writing signed by the judge to the clerk for filing. If the decision is entered other than at a regularly scheduled and noticed hearing, the date of entry

of the decision for a party is 3 days after the court of limited jurisdiction mails a notice to that party advising the party of both the courts decision and of the date that decision was written in the court record or the date that decision was delivered to the clerk for filing.

(c) Subsequent Notice by Other Parties. If a timely notice of appeal is filed by a party, any other party seeking relief from the decision must file a notice of appeal within the later of (1) 7 days after service of the notice of appeal filed by the other party, or (2) the time within which a notice of appeal must be filed as provided in section (a).

(d) Effect of Premature Notice of Appeal. A notice of appeal filed after the announcement of a decision but before entry of the final decision will be treated as filed on the day following entry of the decision.

RULE 2.6
CONTENT OF NOTICE OF APPEAL

(a) Content of Notice of Appeal Generally. A notice of appeal should (1) be titled "Notice of Appeal", (2) identify the party or parties appealing, (3) designate each decision which the party wants reviewed, (4) name the court to which the appeal is taken, (5) provide the identifying material required by section (b), (6) state whether the case appealed is criminal (include charge description), civil, or an infraction, and (7) name the court and cause number from which the appeal is taken.

(b) Identification of Parties, Lawyers, and Address of Defendant in Criminal Case. The first party to file a notice of appeal should include on the notice the name and address of the lawyer for each of the parties represented by a lawyer and the address of parties who are not represented by counsel. If a defendant in a criminal case appeals, the notice of appeal shall include the defendant's address. The defendant in a criminal case must file a statement in the superior court and the court of limited jurisdiction indicating any changes in the defendant's address during the appeal.

(c) (Reserved.)

(d) (Reserved.)

(e) Multiple Parties Filing Notice of Appeal. More than one party may join in a single notice of appeal.

(f) Defects in Form of Notice of Appeal. The superior court will disregard defects in the form of a notice of appeal if the notice clearly reflects an intent by a party to seek review.

(g) Notice by Fewer Than All Parties on a Side--Joinder. If there are multiple parties on a side of a case and fewer than all of the parties on that side of the case timely file a notice of appeal, the superior court will grant relief only (1) to a party who has timely filed a notice, (2) to a party who has been joined as provided in this section, or (3) to a party if demanded by the necessities of the case. The superior court will permit joinder on appeal of a party who did not file a notice of appeal only if the party's rights or duties are derived through the rights or duties of the party who timely filed notice or if the party's rights or duties are dependent upon the superior court determination of the rights or duties of a party who timely filed a notice.

RULE 2.7

(RESERVED)

RULE 3.1

(RESERVED)

RULE 3.2
CHANGE OF SUPERIOR COURT JUDGE

(a) Without Cause. A party may disqualify one superior court judge without cause by filing an affidavit of prejudice in accordance with RCW 4.12.050.

(b) For Cause. A party may disqualify a superior court judge for cause as provided in RCW 4.12.040 for any grounds authorized by statute or decisional law.

(c) Waiver of Privilege To Change Judge. The privilege of a party to seek the change of a judge in superior court is waived if a party fails to seek a change of judge within 7 days after receipt of a notice of assignment, unless the ground for seeking a change of judge is a particular incident, conversation, or utterance by the judge which was not known to the party or to the party's attorney within the 7-day period.

RULE 4.1
AUTHORITY OF COURTS PENDING APPEAL

(a) Superior Court. After a notice of appeal has been filed, the superior court has authority to perform all acts necessary to secure the fair and orderly review of the case.

(b) Court of Limited Jurisdiction. After a notice of appeal has been filed, and while the case is on appeal, the court of limited jurisdiction has authority to act in a case only to the extent provided in these rules, unless the superior court limits or expands that authority in a particular case.

(c) Questions Relating to Indigency. The court of limited jurisdiction has authority to decide questions relating to indigency.

(d) Attorney Fees and Costs. When a party is entitled to an award of attorney fees or costs, the court of limited jurisdiction has authority to determine such an award for a party's efforts in the court of limited jurisdiction. A party may obtain review of a court of limited jurisdiction's decision on attorney fees or costs in the same review proceeding as that challenging the judgment without filing a separate notice of appeal.

[Amended effective September 1, 2006.]

RULE 4.2
ENFORCEMENT OF JUDGMENT

(a) Civil Case. A party may not enforce a civil judgment of a court of limited jurisdiction until 30 days after the entry of the judgment. Thereafter, a party may enforce the judgment in the court of limited jurisdiction unless enforcement is stayed as provided in Rule 4.3.

(b) Criminal Case. A sentence in a criminal case will be enforced by the court of limited jurisdiction if the defendant appeals and fails to stay enforcement of sentence as provided in rule 4.3(b).

(c) Statutes Control. Except as otherwise provided in these rules, statutes and other rules relating to enforcement of a judgment and a sentence are applicable.

RULE 4.3

STAY OF ENFORCEMENT OF JUDGMENT

(a) Civil Case. The superior court may stay enforcement of a judgment in a civil case after a notice of appeal has been filed. The superior court may impose the same conditions on the granting of a stay as those imposable on parties before the courts of appeals.

(b) Criminal Case. In a criminal case, the court of limited jurisdiction has authority, subject to RCW 9.95.062 and 9.95.064, to stay enforcement of the sentence pending appeal and to fix conditions of release. Where the sentence is stayed pending appeal, the court of limited jurisdiction has authority to revoke the stay upon proof of violation of the conditions of release.

Amended 12/02/99

RULE 5.1
RECORDING GENERALLY

(a) Generally. The proceedings in a court of limited jurisdiction shall be recorded by electronic means, unless the parties agree that some other form of record shall be prepared at the parties' own expense or that no record of the proceedings is necessary. This title applies to proceedings which are to be recorded by electronic means.

(b) Nonelectronic Record in Emergency. In the event of an equipment failure or other situation making an electronic recording impossible, the court may order the proceeding to be recorded by nonelectronic means. The nonelectronic record must be made at the courts expense, and in the event of an appeal, any necessary transcription of the nonelectronic record must be made at the courts expense.

RULE 5.2
STATEMENTS TO BE MADE ON THE RECORD

(a) Generally. At the beginning of the case, the judge of the court of limited jurisdiction shall state on the record the name and number of the case and the names of the attorneys for the parties who are represented by counsel. During the trial of the case, the judge shall state on the record or have stated on the record the names of any or all witnesses as they appear in the course of the proceeding.

(b) Decision, Findings, Conclusions. In all actions tried upon the facts without a jury or with an advisory jury the court shall state separately its findings of fact and conclusions of law. Judgment shall be entered pursuant to CRLJ 58 or CrRLJ 7.3 and may be entered at the same time as the entry of the findings of fact and the conclusions of law. If a written opinion or memorandum of decision is filed, it will be sufficient if formal findings of fact and conclusions of law are included.

RULE 5.3
LOG

The judge of the court of limited jurisdiction shall cause a written log to be maintained separate from the recording indicating the location on the electronic record of relevant events in the proceedings, including but not limited to the beginning of the proceeding, the beginning and ending of the testimony of each witness, the decision of the court, and the end of the proceeding.

RULE 5.4
LOSS OR DAMAGE OF ELECTRONIC RECORD

In the event of loss or damage of the electronic record, or any significant or material portion thereof, the appellant, upon motion to the superior court, shall be entitled to a new trial, but only if the loss or damage of the record is not attributable to the appellant's malfeasance. In lieu of a new trial, the parties may stipulate to a nonelectronic record as provided in rule 6.1(b). The court of limited jurisdiction shall have the authority to determine whether or not significant or material portions of the electronic record have been lost or damaged, subject to review by the superior court upon motion.

RALJ RULE 6.1
CONTENTS OF RECORD

(a) Generally. Except as provided in section (b), the record of proceedings in the court of limited jurisdiction for appeal shall include the original or a copy of the log prepared for the recording,

and the originals or copies of the docket, pleadings, exhibits, orders, and other papers filed with the clerk of the court of limited jurisdiction.

(b) Agreed Record. The parties may agree to a form of record other than that provided by section (a), including but not limited to an agreed narrative report of the proceedings in the court of limited jurisdiction. An agreed form of record may be used only if approved by the court of limited jurisdiction.

RULE 6.2
TRANSMITTAL OF RECORD OF PROCEEDINGS

(a) Transmittal Generally. The party seeking review shall, within 14 days of filing the notice of appeal, serve on all other parties and file with the clerk of the court of limited jurisdiction a designation of those portions of the record that the party wants the clerk to transmit to the superior court. Any party may supplement the designation of the record prior to or with the party's last brief. Thereafter, a party may supplement the designation only by order of the superior court, upon motion. Each party is encouraged to designate only documents and exhibits needed to review the issues presented to the superior court. Within 14 days after the designation is filed, the clerk of the court of limited jurisdiction shall prepare the record and notify each party that the record is ready to transmit and the amount to be paid by each party. Each party shall pay for the cost of preparing the portion of the record designated by that party within 10 days of the clerk's notification, unless the party has been excused from paying by the court. Promptly after receiving payment, or after preparing the record in cases where payment is excused, the clerk of the court of limited jurisdiction shall certify that the record is true and complete, transmit it to the superior court, and notify the parties that the record has been transmitted.

(b) Cumbersome Exhibits. The clerk of the court of limited jurisdiction shall notify the superior court of exhibits which are difficult or unusually expensive to transmit. The exhibits shall be transmitted only if the superior court directs or if a party makes arrangements with the clerk to transmit the exhibits at the expense of the party requesting the transfer of exhibits.

RULE 6.3
COPY OF RECORDING FOR PARTIES

The clerk of the court of limited jurisdiction shall provide any party with a copy of all or part of the record of proceedings and the log for the record upon request and upon the payment of the actual expense for preparation of the requested copy.

RULE 6.3.1
TRANSCRIPT OF ELECTRONIC RECORD

(a) Transcript by Appellant. Unless the superior court orders otherwise, the appellant shall transcribe the electronic recording of proceedings as provided in section (c) of this rule. The transcript shall be filed and served with the appellant's brief.

(b) Transcript by Respondent. If the respondent wishes to add to or challenge the transcript of the recording of proceedings, the respondent shall file and serve an additional transcript with the respondent's brief.

(c) Content of Transcript. The transcript shall contain only those portions of the electronic recording necessary to present the issues raised on appeal. If the appellant intends to urge that a verdict or finding of fact is not supported by the evidence, the appellant shall include in the transcript all testimony relevant to the disputed verdict or finding. If the appellant intends to urge that the court erred in giving or failing to give an instruction, the appellant shall include all objections to the instructions given and refused and the court's rulings.

(d) Transcript Generally.

(1) Form. The transcript may be printed, typed, or neatly handwritten, and need not be certified by a notary public.

(2) Certification. The person preparing the transcript shall certify or declare under penalty of perjury that it is true and correct in accordance with RCW 9A.72.085 or any law amendatory thereof.

(3) Disputes. Disputes concerning the completeness or accuracy of the transcript shall be decided by the superior court.

(e) Additional Transcript. The superior court may order a party to prepare an additional transcript.

(f) No Transcript if Agreed Record. No transcript shall be required if the parties have agreed on a written form of record approved by the court of limited jurisdiction, pursuant to rule 6.1(b).

(g) Cost of Transcript. Any cost or expense in preparing a transcript shall be borne by the party providing it. The expense may be allowed as a cost in accordance with rule 9.3.

[Amended effective June 25, 2002]

RALJ 6.4

TRANSMITTAL OF RECORD OF PROCEEDINGS ON DISCRETIONARY REVIEW AND RETURN OF RECORD FOLLOWING TERMINATION OF APPEAL

When a party has filed a notice for discretionary review of the superior court decision, the record of proceedings and the transcript of the electronic record considered by the superior court on direct appeal shall be transmitted to the appellate court. Upon completion of the appeal and any subsequent proceedings for review by the Court of Appeals or Supreme Court, the superior court shall return to the court of limited jurisdiction the record of proceedings transmitted pursuant to RALJ 6.1(a). Transcripts provided pursuant to RALJ 6.3A shall not be returned to the court of limited jurisdiction.

[Amended effective September 1, 2002.]

RULE 7.1
GENERALLY

Each party shall file a brief. The superior court may order a party to file additional briefs or may order that the requirement to file briefs be waived. An appellant may file a reply brief as a matter of right.

RULE 7.2
TIME FOR FILING BRIEFS

(a) Brief of Appellant. The brief of an appellant shall be served on all other parties and filed with the superior court within 45 days after filing of the notice of appeal with the superior court.

(b) Brief of Respondent. The brief of a respondent shall be served on all other parties and filed with the superior court within 30 days after service of the brief of appellant.

(c) Reply Brief. A reply brief shall be filed within 14

days of service of the brief to which it responds, or at such other time as the superior court orders. A reply brief shall be filed no later than 7 days before the day set for argument by the superior court.

(d) Briefing Schedule. If an appeal is preassigned to a judicial department, the court may issue a briefing schedule that allows for complete presentation of all significant issues, and is consistent with the Advisory Case Processing Time Standards endorsed by the Board for Judicial Administration.

[Amended December 5, 2002]

RULE 7.3.
FORMAT OF BRIEFS

(a) Typing or Printing Brief. All briefs shall conform to the requirements of GR 14. In addition, the text of any brief typed or printed in a proportionally spaced typeface must appear in print as 12 point or larger type with no more than 10 characters per inch and double-spaced. The same typeface and print size should be standard throughout the brief, except that footnotes may appear in print as 10 point or larger type and be the equivalent of single-spaced. Quotations may be the equivalent of single-spaced. Except for materials in an appendix, the typewritten or printed material in the brief may not be reduced or condensed by photographic or other means.

(b) Length of Brief. The briefs of appellant and respondent filed pursuant to RALJ 7.2(a) and (b) shall not exceed 18 pages. Reply briefs filed pursuant to RALJ 7.2(c) shall not exceed 6 pages. For the purpose of determining compliance with this rule, appendices are not included. For good cause, the court may grant a motion to file an over-length brief.

(c) Unpublished Opinions. [Reserved. See GR 14.1.]

[Adopted effective September 1, 2005; September 1, 2007.]

RULE 8.1

WHO MAY PRESENT ARGUMENT

A party of record who has failed to file a brief may present oral argument only with leave of court.

RULE 8.2
POSTPONEMENT OF ARGUMENT

The superior court may postpone the time set for oral argument for reasonable cause.

RULE 8.3
TIME ALLOWED AND ORDER OF ARGUMENT

Each side shall be allowed 10 minutes for oral argument, or longer if ordered by the superior court. The first party to file a notice of appeal is entitled to open and conclude oral argument, unless otherwise ordered by the court.

RULE 8.4.
WAIVER OF ORAL ARGUMENT

The parties may, at any time, agree to waive oral argument and submit the matter for consideration by the court on the briefs that have been submitted. The court may, on its own initiative, direct that there be no oral argument, once it has received the brief of appellant and the brief of respondent.

[Adopted effective September 1, 2005]

RULE 9.1
BASIS FOR DECISION ON APPEAL

(a) Errors of Law. The superior court shall review the decision of the court of limited jurisdiction to determine whether that court has committed any errors of law.

(b) Factual Determinations. The superior court shall accept those factual determinations supported by substantial evidence in the record (1) which were expressly made by the court of limited jurisdiction, or (2) that may reasonably be inferred from the judgment of the court of limited jurisdiction.

(c) {Reserved.}

(d) Final Judgment Not Designated in Notice. The superior court will review a final judgment not designated in the notice of appeal only if the notice designates an order deciding a timely posttrial motion based on (1) CrRLJ 7.4 (arrest of judgment), (2) CrRLJ 7.5 (new trial), or (3) CRLJ 59 (new trial, reconsideration, and amendment of judgments).

(e) Disposition on Appeal Generally. The superior court may reverse, affirm, or modify the decision of the court of limited jurisdiction or remand the case back to that court for further proceedings.

(f) Limitation on Modification of Sentence. The superior court shall not modify the sentence imposed in a criminal case unless the sentence is incorrect as a matter of law.

(g) Form of Decision. The decision of the superior court shall be in writing and filed in the clerks office with the other papers in the case. The reasons for the decision shall be stated.

(h) Discretionary Review. The decision of the superior court on appeal is subject to discretionary review pursuant to RAP 2.3(d).

(Amended 11/7/95)

RALJ 9.2
ENTRY OF DECISION AND ENFORCEMENT OF JUDGMENT

(a) Entry of Decision In Superior Court. The decision of the superior court shall be entered immediately after it is signed by the judge, and shall be deemed entered for all procedural purposes from the time of delivery to the superior court clerk for filing.

(b) Transmittal of Superior Court Mandate. The clerk of the superior court shall transmit written notification of the superior court's decision to the court of limited jurisdiction and to each party not earlier than 30 days nor later than 60 days from the filing of the decision in superior court, unless a party files a timely notice for discretionary review.

(c) Entry of Decision in Court of Limited Jurisdiction. The court of limited jurisdiction shall comply with the mandate of the superior court and shall enter the judgment for enforcement in the court of limited jurisdiction.

(d) Enforcement of Judgment in Court of Limited Jurisdiction. Except as otherwise provided in these rules, enforcement of a judgment following termination of appeal shall be in the court of limited jurisdiction.

(e) Registration of Judgment in Superior Court. A

judgment entered in the court of limited jurisdiction may be registered and enforced in the superior court as authorized by law.

[Amended effective November 7, 1995; amended effective September 1, 2002.]

RULE 9.3
COSTS

(a) Party Entitled to Costs. The party that substantially prevails on appeal shall be awarded costs on appeal. Costs will be imposed against a party whose appeal is involuntarily dismissed. Costs will be awarded in a case dismissed by reason of a voluntary withdrawal of an appeal only if the superior court so directs at the time the order is entered permitting the voluntary withdrawal of the appeal.

(b) How Claimed. Costs must be claimed by serving a cost bill on all parties and filing it in the superior court within 10 days after entry of the superior court decision on the appeal. The party should itemize each item of expense claimed in the cost bill.

(c) Expenses Allowed as Costs. Only the reasonable expenses actually incurred by a party for the following items which were reasonably necessary for review may be awarded to a party as costs: (1) statutory attorney fees allowed for a superior court nonjury trial, (2) the superior court filing fee, (3) the expense of obtaining a copy of the record of proceedings and the log for the record as provided in rule 6.3, (4) the cost of preparing the transcript as required by rule 6.3A, (5) the expense of bonds given in connection with the appeal, and (6) such other sums as provided by statute.

(d) Objections to Costs Claimed. A party may object to items in the cost bill of another party by serving on all parties and filing with the superior court objections to the cost bill within 10 days after service of the cost bill upon the party.

(e) Award of Costs. The superior court judge who decided the appeal shall be informed by the parties if a dispute arises over costs. The judge shall decide the dispute promptly after learning of it, without oral argument unless the judge otherwise directs.

(f) Judgment for Costs. The costs claimed by a party shall be deemed awarded unless another party files and serves written objections within the time provided by section (d). The clerk of the superior court shall transmit a copy of the cost bill and any superior court decision allowing costs to the court of limited jurisdiction and a copy of the decision to each party. The costs awarded to a party shall become a part of any judgment entered under rule 9.2(c).

(g) Reasonable Attorney Fees. A request for reasonable attorney fees should not be made in the cost bill. The request should be made as provided in rule 11.2.

[Amended effective November 25, 2003.]

RULE 10.1
VIOLATION OF RULES GENERALLY

The superior court on its own initiative or on motion of a party may order a party or counsel who uses these rules for the purpose of delay or who fails to comply with these rules to pay terms of compensatory damages to any other party who has been harmed by the delay or the failure to comply. The superior court may condition a party's right to participate further in the appeal on compliance with the terms of a sanction order, including an order directing payment of an award by a party. If an award is not paid within the time specified by the superior court, the superior court shall direct the entry of a judgment in accordance with the award.

RULE 10.2
DISMISSAL OF APPEAL

(a) Involuntary Dismissal. The superior court will, on motion of a party or on its own motion after 14 days' notice to the parties, dismiss an appeal of the case (1) except as provided in rule 10.3(c)(1), for failure to timely file a notice of appeal, or (2) for want of prosecution if the party appealing has abandoned the appeal. Unless good cause is shown, an appeal will be deemed abandoned if there has been no action of record for 90 days.

(b) [Reserved.]

(c) Voluntary Withdrawal of Appeal. The superior court may, in its discretion, dismiss an appeal on stipulation of all the parties and, in criminal cases, the written consent of the defendant. The superior court may, in its discretion, dismiss an appeal on the motion of a party who has filed a notice of appeal.

[Amended effective November 25, 2003.]

RULE 10.3
EXTENSION AND REDUCTION OF TIME

(a) Generally. The superior court may, on its own initiative or on motion of a party, enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in section (c).

(b) Procedure for Motion. A party moving to extend or reduce time shall file a written motion with the Superior Court and serve it upon all non-moving parties. the motion shall state (1) the date the act is scheduled or required to occur; (2) the new date requested; and (3) the specific reasons for the motion. The motion shall be considered without oral argument unless called for by the superior court. A non-moving party may respond to the motion in writing. A response must be filed with the superior court and served upon the moving party within five days after service of the motion to extend or reduce time.

(c) Restrictions on Extension of Time.

(1) The superior court will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the time within which a party must file a notice of appeal. The superior court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. A motion to extend time is determined by the superior court to which the untimely notice of appeal is directed.

(2) The superior court will not enlarge the time provided in rule 9.2 within which the superior court enters and transmits its decision.

(d) Terms. The remedy for violation of these rules is set forth in rule 10.1. The superior court may condition the exercise of its authority under this rule by imposing terms as provided in rule 10.1.

RULE 11.1
REVIEW OF DECISIONS OF A COURT OF LIMITED JURIS-
DICTION ON MATTERS OF APPELLATE
PROCEDURE

A party may object to and obtain review of a decision of a court of limited jurisdiction on matters of appellate procedure, including but not limited to enforcement of a judgment or sentence, by motion in the superior court.

RULE 11.2
LAWYER'S FEES AND EXPENSES

(a) Generally. If applicable law grants to a party the right to recover reasonable lawyer's fees or expenses, the party should request the fees or expenses as provided in this rule.

(b) Statutes Control. If a statute gives a party the right to recover

lawyer's fees or expenses under certain circumstances for services in a court of limited jurisdiction, a party is entitled to fees and expenses under similar circumstances for services on an appeal to the superior court.

(c) Argument in Brief. The party should devote a section of the brief to the request for the fees or expenses.

(d) Affidavit. At or before oral argument, the party should serve and file an affidavit in the superior court detailing the expenses incurred and the services performed by counsel.

(e) Oral Argument. A party should include in oral argument a request for the fee or expenses and a reference to the affidavit on file.

RULE 11.3
TITLE OF CASE

The title of the case in the superior court shall be the same as in the court of limited jurisdiction unless otherwise ordered by the court.

RULE 11.4
EFFECT OF REVERSAL ON INTERVENING RIGHTS

If a party has voluntarily or involuntarily partially or wholly satisfied a judgment of a court of limited jurisdiction which is modified by the superior court on appeal, the superior court shall enter orders and authorize the issuance of process appropriate to restore to the party any property taken from that party, or the value of the property. An interest in property acquired by a purchaser in good faith, under a judgment subsequently reversed or modified, shall not be affected by the reversal or modification of that judgment.

RULE 11.5
FORMS

A person may use any form which substantially complies with these rules.

RULE 11.6
SERVICE, FILING, AND SIGNING OF PAPERS

CR 5 and CrR 8.4 apply to the service and filing of papers under these rules. None of the papers required by these rules to be served are original process. All briefs and motions signed by an attorney shall include the attorneys Washington State Bar Association membership number in the signature block.

RULE 11.7
APPLICATION OF OTHER COURT RULES

(a) Civil Rules. The following Superior Court Civil Rules are applicable to appellate proceedings in civil cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CR 1 (scope of rules), CR 2A (stipulations), CR 6 (time), CR 7(b) (form of motions), CR 11 (signing of pleadings), CR 25 (substitution of parties), CR 40(a)(2) (notice of issues of law), CR 42 (consolidation; separate trials), CR 46 (exceptions unnecessary), CR 54(a) (judgments and orders), CR 60 (relief from judgment or order), CR 71 (withdrawal by attorney), CR 77 (superior courts and judicial officers), CR 78 (clerks), CR 79 (books and records kept by the clerk), CR 80 (court reporters), and CR 83 (local rules of superior court).

(b) Criminal Rules. The following Superior Court Criminal Rules are applicable to appellate proceedings in criminal cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CrR 1.1 (scope), CrR 1.2 (purpose and construction), CrR 1.4 (prosecuting attorney definition), CrR 3.1 (right to and assignment of counsel), CrR 7.1 (sentencing), CrR 7.2 (presentence investigation), CrR 8.1 (time), CrR 8.2 (motions), CrR 8.5 (calendars), CrR 8. 6 (exceptions unnecessary), CrR 8.7 (objections), and CrR 8.8 (discharge).

(c) Civil Rules for Courts of Limited Jurisdiction. The following Civil Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in civil cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: CRLJ 5 (service and filing), CRLJ 6 (time), CRLJ 7(b) (motions), CRLJ 8 (general rules of pleading), CRLJ 10 (form of pleadings), CRLJ 11 (verification and signing of pleadings), CRLJ 25 (substitution of parties), CRLJ 40(b) (disqualification of judge), and CRLJ 60 (relief from judgment or order).

(d) Criminal Rules for Courts of Limited Jurisdiction. The following Criminal Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in criminal cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: CrRLJ 1.7 (local court rules--availability), CrRLJ 1.5 (style and form), CrRLJ 3.1 (right to and assignment of lawyer), CrRLJ 8.9 (disqualification of judge), CrRLJ 8.9(c) (disqualification of judge--transfer), CrRLJ 7.8(a) (clerical mistakes), CrRLJ 8.1 (time), and CrRLJ 8.2 (motions). (Editorial Note: Effective September 1, 1987, Justice Court Criminal Rules (JCrR) were retitled Criminal Rules for Courts of Limited Jurisdiction (CrRLJ). Effective September 1, 1989, Justice Court Civil Rules (JCR) were retitled Civil Rules for Courts of Limited Jurisdiction (CRLJ).)

RULE 11.8
LOCAL COURT RULES--AVAILABILITY

Courts to which these rules apply may adopt in accordance with GR 7 such local rules not inconsistent with these general rules as they may deem necessary for their respective courts. The court, upon the adoption of such rules, shall keep a copy of them readily available for inspection.

RULE 11.9
TITLE AND CITATION OF RULES

These rules shall be known and cited as the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. RALJ is the official abbreviation.

CIVIL RULES FOR COURTS OF LIMITED JURISDICTION
(CRLJ)

TABLE OF RULES

1. INTRODUCTORY

2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

3. PLEADINGS AND MOTIONS

82 Jurisdiction and Venue--Unaffected
83 Local Rules
84 Reserved
85 Title
86 Effective Date

12. MISCELLANEOUS PROCEEDINGS RULES

86.04--99.04 Reserved

RULE CRLJ 1
SCOPE OF RULES

These rules govern the procedure in all trial courts of limited jurisdiction in all suits of a civil nature, with the exceptions stated in rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

[Adopted effective September 1, 1984; September 1, 2005.]

RULE 2
ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

RULE 2A
STIPULATIONS

No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court on the record, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same.

RULE 3
COMMENCEMENT OF ACTION

A civil action is commenced by filing with the court a complaint signed as required by rule 11.

RULE CRLJ 4
PROCESS

(a) Summons--Issuance.

(1) The summons must be signed and dated by the plaintiff or his attorney, and directed to the defendant requiring him to defend the action and to serve a copy of his appearance or defense on the person whose name is signed on the summons, and to file a copy of his appearance or defense with the court.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve and file a copy of his defense within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different time to serve a

defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the defendant or his attorney, and shall be served upon the person whose name is signed on the summons and filed with the court.

(4) No summons is necessary for a counterclaim or cross claim for any person who previously has been made a party. Counterclaims and cross claims against an existing party may be served as provided in rule 5.

(b) Summons.

(1) Contents. The summons for personal service shall contain:

(i) the title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant;
(ii) a direction to the defendant summoning him to serve a copy of his defense within a time stated in the summons and to file with the court a copy of his defense within the time stated in the summons;

(2) Form. The summons for personal service in the state shall be substantially in the following form:

(NAME AND LOCATION OF COURT)

_____,	)	
Plaintiff,	)	No. _____
v.	)	
_____,	)	SUMMONS (20 days)
Defendant.	)	

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by _____, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person you are entitled to notice before a default judgment may be entered.

Any response or notice of appearance which you serve on any party to this lawsuit must also be filed by you with the court within 20 days after the service of summons, excluding the day of service.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Civil Rules for Courts of Limited Jurisdiction.

(signed) _____

_____
Print or Type Name
( ) Plaintiff ( ) Plaintiff's Attorney
P. O. Address _____

Dated _____ Telephone Number _____

(c) By Whom Served. Service of summons and complaint may be made by the sheriff or a deputy of the county or district in which the court is located or by any person over the age of 18 years and who is competent to be a witness and is not a party to the action.

(d) Service.

(1) Of Summons and Complaint. The summons and complaint shall be served together.

(2) Personal in State. Personal service of summons and other process shall be as provided in RCW 4.28.080-.090, 23B.05.040, 23B.15.100, 46.64.040, and 48.05.200 and .210, and other statutes which provide for personal service

(e) Service by Publication and Personal Service Out of the Jurisdiction.

(1) When the defendant cannot be found within the territorial

jurisdiction of the court (of which the return of the sheriff of the county in which the action is brought, that the defendant cannot be found in the county, is prima facie evidence), and upon filing of an affidavit of the plaintiff, his agent, or attorney, with the court stating that he believes that the defendant is not a resident of the county, or cannot be found therein, and that he has deposited a copy of the summons (substantially in the form prescribed in this rule) and complaint in the post office, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons by the plaintiff or his attorney in any of the following cases:

(i) when the defendant is a foreign corporation, and has property within the county;

(ii) when the defendant, being a resident of the county, has departed therefrom with intent to defraud his creditors, or to avoid the service of a notice and complaint, or keeps himself concealed therein with like intent;

(iii) when the defendant is not a resident of the county, but has property therein which has been brought under the control of the court by seizure or some equivalent act;

(iv) when the subject of the action is personal property in the county, and the defendant has or claims a lien or interest, actual or contingent, therein, and the relief demanded consists wholly, or partially, in excluding the defendant from any interest or lien therein;

(v) when the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to personal property in the county.

(2) The publication shall be made in the same manner and in the same form as a summons by publication in superior court (see RCW 4.28.100), with appropriate adjustments for the name and location of the court.

(3) Personal service on the defendant out of the territorial jurisdiction of the court shall be equivalent to service by publication, and the notice to the defendant out of the county shall contain the same as the notice by publication and shall require the defendant to appear at a time and place certain which shall not be less than 30 days from the date of service.

(4) Service made in the modes provided in this section 4(e) shall not alone be taken and held to give the court jurisdiction over the person of the defendant. By such service the court only acquires jurisdiction to give a judgment which is effective as to property or debts attached or garnished in connection with the suit or other property which properly forms the basis of jurisdiction of the court. If the defendant appears in a suit commenced by such service the court shall have jurisdiction over his person. The defendant may appear specially and solely to challenge jurisdiction over property or debts attached or garnished or other property within the jurisdiction of the court.

(f) Alternative to Service by Publication. In circumstances justifying service by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a party, by mailing copies of the summons and other process to the party to be served at his last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showin g when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the defendant to appear and answer the complaint within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(g) Appearance. A voluntary appearance of a defendant does not preclude his right to challenge lack of jurisdiction over his person, insufficiency of process, or insufficiency of service of process pursuant to rule 12(b).

(h) Territorial Limits of Effective Service. All process other than a subpoena may be served anywhere within the territorial limits of the state, and when a statute or these rules so provide beyond the territorial limits of the state. A subpoena may be served within the territorial limits provided in rule 45 and RCW 5.56.010.

(i) Return of Service. Proof of service shall be as follows:

(1) If served by the sheriff or his deputy, the return of the sheriff or his deputy endorsed upon or attached to the summons;

(2) If served by any other person, his affidavit of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit of the publisher, foreman, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(4) If served as provided in section (f), the affidavit of the serving party stating that copies of the summons and other process were sent by mail in accordance with the rule and directions by the court, and stating to whom, and when, the envelopes were mailed;

(5) The written acceptance or admission of the defendant, his agent or attorney;

(6) In case of personal service out of the state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record;

(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit must state the time, place, and manner of service. Failure to make proof of service does not affect the validity of the service.

(j) Amendment of Process. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

[Amended effective September 1, 1994; September 1, 1996; September 1, 2000.]

RULE CRLJ 4.2
PROCESS – LIMITED REPRESENTATION

(a) An attorney may undertake to provide limited representation in accordance with RPC 1.2 to a person involved in a court proceeding.

(b) Providing limited representation of a person under these rules shall not constitute an entry of appearance by the attorney for purposes of CR 5(b) and does not authorize or require the service or delivery of pleadings, papers or other documents upon the attorney under CRLJ 5(b). Representation of the person by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the person constitutes an entry of appearance pursuant to RCW 4.28.210 and CRLJ 4(a)(3), except to the extent that a limited notice of appearance as provided for under CRLJ 70.1 is filed and served prior to or simultaneous with the actual appearance. The attorney's violation of this Rule may subject the attorney to the sanctions provided in CRLJ 11(a).

[Effective October 29, 2002]

RULE 5
SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice,

appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4. In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) Service: How Made.

(1) On Attorney or Party. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the clerk of the court an affidavit of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service on an attorney is subject to the restrictions in subsections (b)(4) and (5) of this rule and in rule 71, Withdrawal by Attorneys.

(2) Service by Mail.

(i) How made. If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.

(ii) Proof of service by mail. Proof of service of all papers permitted to be mailed may be by written acknowledgment of service, by affidavit of the person who mailed the papers, or by certificate of an attorney. The certificate of an attorney may be in form substantially as follows:

CERTIFICATE

I certify that I mailed a copy of the foregoing _____ to (John Smith), (plaintiff's) attorney, at (office address or residence), and to (Joseph Doe), an additional (defendant's) attorney (or attorneys) at (office address or residence), postage prepaid, on (date).

_____
(John Brown)
Attorney for (Defendant) William Noe

(3) Service on Nonresidents. Where a plaintiff or defendant who has appeared resides outside the state and has no attorney in the action, the service may be made by mail if his residence is known; if not known, on the clerk of the court for him. Where a party, whether resident or nonresident, has an attorney in the action, the service of papers shall be upon the attorney instead of the party. If the attorney does not have an office within the state or has removed his residence from the state, the service may be upon him personally either within or without the state, or by mail to him at either his place of residence or his office, if either is known, and if not known, then by mail upon the party, if his residence is known, whether within or without the state. If the residence of neither the party nor his attorney, nor the office address of the attorney is known, an affidavit of the attempt to serve shall be filed with the clerk of the court.

(4) Service on Attorney Restricted After Final Judgment. A party, rather than the party's attorney, must be served if the final judgment or decree has been entered and the time for filing an appeal has expired, or if an appeal has been taken (i) after the final judgment or decree upon remand has been entered or (ii) after the mandate has been issued affirming the judgment or decree or disposing of the case in a manner calling for no further action by the trial court. This rule is subject to the exceptions defined in subsection (b)(6).

(5) Required Notice to Party. If a party is served under circumstances described in subsection (b)(4), the paper shall (i) include a notice to the party of the right to file written opposition or a response, the time within which such opposition or response must be filed, and the place where it must be filed; (ii) state that failure to respond may result in the requested relief being granted; and (iii) state that the paper has not been served on that party's lawyer.

(6) Exceptions. An attorney may be served notwithstanding subsection (b)(4) of this rule if (i) fewer than 63 days have elapsed since the filing of any paper or the issuance of any process in the action or proceeding or (ii) if the attorney has filed a notice of continuing representation.

(7) Service by Other Means. Service under this rule may be made by delivering a copy by any other means, including facsimile or electronic means, consented to in writing by the person served. Service by facsimile or electronic means is complete on transmission when made prior to 5:00 p.m. on a judicial day. Service made on a Saturday, Sunday, or holiday or after 5:00 p.m. on any other day shall be deemed complete at 9:00 a.m. on the first judicial day thereafter; Service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service under this subsection is not effective if the party making service learns that the attempted service did not reach the person to be served.

(c) Service: Numerous Defendants. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing.

(1) Time. Complaints shall be filed as provided in rule 3. All pleadings and other papers after the complaint required to be served upon a party shall be filed with the court either before service or promptly thereafter.

(2) Sanctions. If a party fails to file any pleading or paper under this rule, the court upon 5 days' notice of motion for sanctions may dismiss the action or strike the pleading or other paper and grant judgment against the defaulting party for costs and terms including a reasonable attorney fee unless good cause is shown for, or justice requires, the granting of an extension of time.

(3) Limitation. No sanction shall be imposed if prior to the hearing the pleading or paper other than the complaint is filed and the moving attorney is notified of the filing before he leaves his office for the hearing.

(4) Nonpayment. No further action shall be taken in the pending action and no subsequent pleading or other paper shall be filed until the judgment is paid. No subsequent action shall be commenced upon the same subject matter until the judgment has been paid.

(e) Filing With the Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. Papers may be filed by facsimile transmission if permitted elsewhere in these or other rules of court, or if authorized by the clerk of the receiving court. The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

(f) Other Methods of Service. Service of all papers other than the summons and other process may also be made as authorized by statute.

(g) Certified Mail. Whenever the use of "registered" mail is authorized by statutes relating to judicial proceedings or by rule of court, "certified" mail, with return receipt requested, may be used.

(h) Service of Papers by Telegraph. [Rescinded.]

(i) Filing by Facsimile. (Reserved. See GR 17--Facsimile Transmission.)

[Amended effective September 1, 1993; September 1, 1994; September 1, 2005.]

RULE 6
TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, by the local rules of any court, by order of court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any actions under rules 50(b), 59(b), 59(d), and 60(b).

(c) Proceeding Not To Fail for Want of Judge or Session of Court. No proceeding in a court of justice in any action, suit, or proceeding pending therein is affected by a vacancy in the office of any or all of the judges or by the failure of a session of the court.

(d) For Motions--Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in rule 59(c), opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time.

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

RULE 7
PLEADINGS ALLOWED: FORM OF MOTIONS

(a) Pleadings. There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross claim, if the answer contains a cross claim; a third party complaint, if a person who was not an original party is summoned under the provisions of rule 14; and a third party answer, if a third party complaint is served. No other pleadings shall be allowed, except that the court may order a reply to an answer or a third party answer.

(b) Motions and Other Papers.

(1) How Made. An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) Form. The rules applicable to captions, signing, and other matters of form of pleadings apply to all written motions and other papers provided for by these rules.

(3) Identification of Evidence. When a motion is supported by affidavits or other papers, it shall specify the papers to be used by the moving party.

(4) Telephonic Argument. Oral argument on civil motions, including family law motions, may be heard by conference telephone call in the discretion of the court. The expense of the call shall be shared equally by the parties unless the court directs otherwise in the ruling or decision on the motion.

(c) Demurrers, Pleas, etc., Abolished. Demurrers, pleas and exceptions for insufficiency of a pleading shall not be used.

RULE 8
GENERAL RULES OF PLEADING

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross claim, or third party claim shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

(b) Defenses; Form of Denials. A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, he may do so by general denial subject to the obligations set forth in rule 11.

(c) Affirmative Defenses. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fault of a nonparty, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitation, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) Effect of Failure To Deny. Averments in a pleading to which responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) Pleading To Be Concise and Direct: Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in rule 11.

(f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

RULE 9
PLEADING SPECIAL MATTERS

(a) Capacity. It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment which shall include such supporting particulars as are peculiarly within the pleaders knowledge.

(b) Fraud, Mistake, Condition of the Mind. In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) Condition Precedent. In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) Official Document or Act. In pleading an official document or official act, it is sufficient to aver that the document was issued or the

act done in compliance with law.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) Time and Place. For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) Special Damage. When items of special damage are claimed, they shall be specifically stated.

(h) Pleading Existence of City or Town. In pleading the existence of any city or town in this state, it shall be sufficient to state in such pleading that the same is an existing city or town, incorporated or organized under the laws of Washington.

(i) Pleading Ordinance. In pleading any ordinance of a city or town in this state it shall be sufficient to state the title of such ordinance and the date of its passage, whereupon the court shall take judicial notice of the existence of such ordinance and the tenor and effect thereof.

(j) Pleading Private Statutes. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title, and the day of its passage, and the court shall thereupon take judicial notice thereof.

(k) Foreign Law.

(1) United States Jurisdictions. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States shall set forth in his pleading facts which show that the law of another United States jurisdiction may be applicable, or shall state in his pleading or serve other reasonable written notice that the law of another United States jurisdiction may be relied upon.

(2) Other Jurisdictions. A party who intends to raise an issue concerning the law of a jurisdiction other than a state, territory or other jurisdiction of the United States shall give notice in his pleading of the foreign jurisdiction whose law he contends may be applicable to the facts of the case. The following matters need not be pleaded, but may be discovered pursuant to rule 26:

(i) the party's contentions as to which issues of law are governed by the foreign law;

(ii) the substance of such foreign law;

(iii) the expected effect of such foreign law on the legal issues and on the outcome of the case being tried;

(iv) the specific foreign statutes, regulations, judicial and administrative decisions, documents and other nonprivileged written materials and translations thereof upon which the party intends to rely.

(3) Application of Foreign Law. Issues of foreign law may be simplified pursuant to rule 16 and determined in advance of trial pursuant to rule 56.

(4) Failure To Plead Foreign Law. If no party has requested in his pleadings application of the law of a jurisdiction other than a state, territory or other jurisdiction of the United States, the court at time of trial shall apply the law of the State of Washington unless such application would result in manifest injustice.

(l) Burden of Proof. Nothing in this rule shall be construed to shift or alter the burden of proof.

RULE CRLJ 10
FORM OF PLEADINGS

(a) Caption; Names of Parties. Every written pleading shall contain a caption setting forth the name of the court, the title of the action, the file number if known to the person signing it, and a designation as in rule 7(a). In the complaint the title of the action shall include the names of all the parties, but in other written pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. When the plaintiff is ignorant of the name of the defendant, it shall be so stated in his pleading, and such defendant may be designated in any pleading or proceeding by any name, and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

(b) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(c) Form. The requirements for pleadings, motions, and other papers are as specified in GR 14, except exhibits and forms approved by the Office of the Administrator for the Courts need not be on letter-size paper (8-1/2 by 11 inches).

(d) Personal Identifiers Prohibited. [Reserved. See GR 31(e).]

(e) Unpublished Opinions. [Reserved. See GR 14.1.]

[Amended effective September 1, 1990; September 1, 2000; September 1, 2007.]

RULE CRLJ 11
SIGNING AND DRAFTING OF PLEADINGS, MOTIONS, AND LEGAL MEMORANDA: SANCTIONS

(a) Every pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record in the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date the party's pleading, motion, or legal memorandum and state the party's address. Pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion, or legal memorandum, and that to the best of the party's or attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances; (1) it is well grounded in fact; (2) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. If a pleading, motion, or legal memorandum is not signed shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or legal memorandum is signed in violation of this rule, the court upon motion or upon its own initiative may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or legal memorandum, including a reasonable attorney fee.

(b) In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading , motion, or legal memorandum, and that to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact, (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

[Amended effective September 1, 1990; September 1, 1994; October 15, 2002; September 1, 2005.]

RULE 12
DEFENSES AND OBJECTIONS

(a) When Presented. A defendant shall serve his answer within the following periods:

(1) Within 20 days, exclusive of the day of service, after the service of the summons and complaint upon him pursuant to rule 4;

(2) Within 60 days from the date of the first publication of the summons if the summons is served by publication in accordance with rule 4;

(3) Within the period fixed by any other applicable statutes or rules.

A party served with a pleading stating a cross claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these

periods of time as follows, unless a different time is fixed by order of the court.

(i) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the courts action.

(ii) If the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross claim, or third party claim, shall be asserted by the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in rule 56 and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by rule 56.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by rule 56.

(d) Preliminary Hearings. The defenses specifically enumerated (1)-(7) in section (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in section (c) of this rule shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, or if more particularity in that pleading will further the efficient economical disposition of the action, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion To Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the courts own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it other motions herein provided for and then available to him. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subsection (h)(2) hereof on any of the grounds there stated.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service of process is waived (i) if omitted from a motion in the circumstances described in section (g), or (ii) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by rule 15(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

(i) Nonparty at Fault. Whenever a defendant or a third party defendant intends to claim for purposes of RCW 4.22.070(1) that a nonparty is at fault, such claim is an affirmative defense which shall be affirmatively pleaded by the party making the claim. The identity of any nonparty claimed to be at fault, if known to the party making the claim, shall also be affirmatively pleaded.

RULE 13
COUNTERCLAIM AND CROSS CLAIM

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon his claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(b) Permissive Counterclaims. A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(c) Counterclaim Exceeding Opposing Claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Counterclaim Against the State. These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims, or to claim credits against the State or an officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

(g) Cross Claim Against Coparty. A pleading may state as a cross claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross claim may include a claim that the party against whom it is asserted is or may be liable to the cross claimant for all or part of a claim asserted in the action against the cross claimant.

(h) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross claim in accordance with the provisions of rules 19 and 20.

(i) Separate Trials; Separate Judgment. If the court orders separate trials as provided in rule 42(b), judgment on a counterclaim or cross claim may be rendered in accordance with the terms of rule 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

(j) Setoff Against Assignee. The defendant in a civil action upon a contract express or implied, other than upon a negotiable promissory note or bill of exchange, negotiated in good faith and without notice before due, which has been assigned to the plaintiff, may set off a demand of a like nature existing against the person to whom he was originally liable, or any assignee prior to the plaintiff, of such contract, provided such demand existed at the time of the assignment thereof, and belonging to the defendant in good faith, before notice of such assignment, and was such a demand as might have been set off against such person to whom he was originally liable, or such assignee while the contract belonged to him.

(k) Setoff Against Beneficiary of Trust Estate. If the plaintiff be a trustee to any other, or if the action be in a name of a plaintiff which has no real interest in the contract upon which the action is founded, so much a demand existing against those whom the plaintiff represents or for whose benefit the action is brought may be set off as will satisfy the plaintiffs debt, if the same might have been set off in an action brought against those beneficially interested.

(l) Setoff Must Be Pleaded. To entitle a defendant to a setoff under this rule, he must set forth the same in his answer.

RULE 13.04
SETOFFS AGAINST ASSIGNEES

(Rescinded. Provisions transferred to rule 13.)

RULE 14

THIRD PARTY PRACTICE

(a) When Defendant May Bring in Third Party. At any time after commencement of the action a defending party, as a third party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiffs claim against him. The third party plaintiff need not obtain leave to make the service if he files the third party complaint not later than 10 days after he serves his original answer. Otherwise he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third party complaint, hereinafter called the third party defendant, shall make his defenses to the third party plaintiffs claim as provided in rule 12 and his counterclaims against the third party plaintiff and cross claims against other third party defendants as provided in rule 13. The third party defendant may assert against the plaintiff any defenses which the third party plaintiff has to the plaintiffs claim. The third party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiffs claim against the third party plaintiff. The plaintiff may assert any claim against the third party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiffs claim against the third party plaintiff, and the third party defendant thereupon shall assert his defenses as provided in rule 12 and his counterclaims and cross claims as provided in rule 13. Any party may move to strike the third party claim, or for its severance or separate trial. A third party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third party defendant.

(b) When Plaintiff May Bring in Third Party. When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

(c) Tort Cases. This rule shall not be applied in tort cases, so as to permit the joinder of a liability or indemnity insurance company, unless such company is by statute or contract directly liable to the person injured or damaged.

RULE CRLJ 14A
REMOVAL TO SUPERIOR COURT

(a) Jurisdiction Over Third Party. A case may be removed to superior court in order to obtain jurisdiction over a third party defendant, as provided in RCW 4.14.010. This procedure is governed by RCW 4.14.

(b) Claims in Excess of Jurisdiction--Generally. When any party in good faith asserts a claim in an amount in excess of the jurisdiction of the district court or seeks a remedy beyond the jurisdiction of the district court, the district court shall order the entire case removed to superior court.

(c) Claims in Excess of Jurisdiction--Orders and Process. If a case is removed to the superior court under section (b) of this rule, the superior court may issue all necessary orders and process as provided in RCW 4.14.030.

(d) Claims in Excess of Jurisdiction--Improper Removal. If it appears that a case has been improperly removed to the superior court under section (b) of this rule, the superior court shall remand the case as provided in RCW 4.14.030.

(e) Claims in Excess of Jurisdiction--Attached Property; Custody. If property of a defendant is attached or garnished prior to the removal of a case, the attachment or garnishment shall be transferred with the removed case to the superior court and shall be held to answer the final judgment or decree in the same manner as it would have been held to answer had the cause been brought in the superior court originally.

[Adopted effective September 1, 1984; September 1, 2004.]

RULE CRLJ 15
AMENDED AND SUPPLEMENTAL PLEADINGS

(a) Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is

served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. If a party moves to amend a pleading, a copy of the proposed amended pleading, denominated "proposed" and unsigned, shall be attached to the motion. If a motion to amend is granted, the moving party shall thereafter file the amended pleading and, pursuant to rule 5, serve a copy thereof on all other parties. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service or notice of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) Amendments to Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If the evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) Relation Back of Amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

(e) Interlineations. No amendments shall be made to any pleading by erasing or adding words to the original on file, without first obtaining leave of the court.

[Adopted effective September 1, 1984; Amended effective September 1, 2005.]

RULE 16

(RESERVED)

RULE 17
PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

(-) Designation of Parties. The party commencing the action shall be known as the plaintiff, and the opposite party as the defendant.

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by

statute may sue in his own name without joining with him the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Infants or Incompetent Persons.

(1) When an infant is a party he shall appear by guardian, or if he has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint a guardian ad litem. The guardian shall be appointed:

(i) when the infant is plaintiff, upon the application of the infant, if he be of the age of 14 years, or if under the age, upon the application of a relative or friend of the infant;

(ii) when the infant is defendant, upon the application of the infant, if he be of the age of 14 years, and applies within the time he is to appear; if he be under the age of 14, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

(2) When an insane person is a party to an action he shall appear by guardian, or if he has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed:

(i) when the insane person is plaintiff, upon the application of a relative or friend of the insane person;

(ii) when the insane person is defendant, upon the application of a relative or friend of such insane person, such application shall be made within the time he is to appear. If no such application be made within the time above limited, application may be made by any party to the action.

RULE 18
JOINDER OF CLAIMS AND REMEDIES

(a) Joinder of Claims. A party asserting a claim to relief as an original claim, counterclaim, cross claim, or third party claim, may join, either as independent or as alternate claims, as many claims as he has against an opposing party.

(b) Joinder of Remedies. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties.

RULE 19
JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION

(a) Persons To Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

(b) Determination by Court Whenever Joinder Not Feasible. If a person joinable under (1) or (2) of section (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the persons absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the persons absence will be adequate; (4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(c) Pleading Reasons for Nonjoinder. A pleading asserting a claim for

relief shall state the names, if known to the pleader, of any persons joinable under (1) or (2) of section (a) hereof who are not joined, and the reasons why they are not joined.

(d) (Reserved.)

(e) Husband and Wife Must Join--Exceptions. RCW 4.08.030 applies to the joinder of spouses.

RULE 20
PERMISSIVE JOINDER OF PARTIES

(a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to all of these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

(c) When Husband and Wife May Join. (Reserved. See RCW 4.08.040.)

(d) Service on Joint Defendants; Procedure After Service. When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

(1) If the action is against the defendants jointly indebted upon a contract, he may proceed against the defendants served unless the court otherwise directs; and if he recovers judgment it may be entered against all the defendants thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the defendants served.

(2) If the action is against defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

(3) Though all the defendants may have been served with the summons, judgment may be taken against any of them severally, when the plaintiff would be entitled to judgment against such defendants if the action had been against them alone.

(e) Procedure To Bind Joint Debtor. RCW 4.68 applies to the enforcement of a judgment against a joint debtor.

RULE 21
MISJOINDER AND NONJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

RULE 22
INTERPLEADER

(a) Rule. Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross claim or counterclaim. The provisions of this rule supplement and do not in any way

limit the joinder of parties permitted under other rules and statutes.

(b) Statutes. The remedy herein provided is in addition to and in no way supersedes or limits the remedy provided by RCW 4.08.150 to 4.08.180, inclusive.

RULE 23

(RESERVED)

RULE 24
INTERVENTION

(a) Intervention of Right. Upon timely application, anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicants interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application, anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicants claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirements, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon all parties as provided in rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

RULE 25
SUBSTITUTION OF PARTIES

(a) Death.

(1) Procedure. If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided by rule 5 for service of notices, and upon persons not parties in the manner provided by statute or by rule for the service of a summons. If substitution is not made within the time authorized by law, the action may be dismissed as to the deceased party.

(2) Partial Abatement. In the event of the death of one or more of the plaintiffs or one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

(b) Incompetency. If a party becomes incompetent, the court upon motion served as provided in section (a) of this rule may allow the action to be continued by or against his representative.

(c) Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in section (a) of this rule.

(d) Public Offices; Death or Separation From Office. (Reserved.)

CRLJ 26
DISCOVERY

Discovery in courts of limited jurisdiction shall be permitted as follows:

(a) Specification of Damages. A party may demand a specification of damages under RCW 4.28.360.

(b) Interrogatories and Requests for Production.

(1) The following interrogatories may be submitted by any party:

(A) State the amount of general damages being claimed.

(B) State each item of special damages being claimed and the amount thereof.

(C) List the name, address and telephone number of each person having any knowledge of facts regarding liability.

(D) List the name, address and telephone number of each person having any knowledge of facts regarding the damages claimed.

(E) List the name, address and telephone number of each expert you intend to call as a witness at trial. For each expert, state the subject matter on which the expert is expected to testify. State the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(2) In addition to section (b)(1), any party may serve upon any other party not more than two sets of written interrogatories containing not more than 20 questions per set without prior permission of the court. Separate sections, paragraphs or categories contained within one interrogatory shall be considered separate questions for the purpose of this rule. The interrogatories shall conform to the provisions of CR 33.

(3) The following requests for production may be submitted by any party:

(A) Produce a copy of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of any judgment which may be entered in this action, or to indemnify or reimburse the payments made to satisfy the judgment.

(B) Produce a copy of any agreement, contract or other document upon which this claim is being made.

(C) Produce a copy of any bill or estimate for items for which special damage is being claimed.

(4) In addition to section (b)(3), any party may submit to any other party a request for production of up to five separate sets of groups of documents or things without prior permission of the court. The requests for production shall conform to the provisions of CR 34.

(c) Depositions.

(1) A party may take the deposition of any other party, unless the court orders otherwise.

(2) Each party may take the deposition of two additional persons without prior permission of the court. The deposition shall conform to the provisions of CR 30.

(d) Requests for Admission.

(1) A party may serve upon any other party up to 15 written requests for admission without prior permission of the court. Separate sections, paragraphs or categories contained within one request for admission shall be considered separate requests for purposes of this rule.

(e) Other Discovery at Discretion of Court. No additional discovery shall be allowed, except as the court may order. The court shall have discretion to decide whether to permit any additional discovery. In exercising such discretion the court shall consider (1) whether all parties are represented by counsel, (2) whether undue expense or delay in bringing the case to trial will result and (3) whether the interests of justice will be promoted.

(f) How Discovery to Be Conducted. Any discovery authorized pursuant to this rule shall be conducted in accordance with Superior Court Civil Rules 26 through 37, as governed by CRLJ 26.

(g) Time for Discovery. Twenty-one days after the service of the summons and complaint, or counterclaim, or cross complaint, the served party may demand the discovery set forth in sections

(a) - (d) of this rule, or request additional discovery pursuant to section (e) of this rule. Unless agreed by the parties and with the permission of the court, all discovery shall be completed within 60 days of the demand, or 90 days of service of the summons and complaint, or counterclaim, or cross complaint, whichever is longer.

[Amended effective September 1, 1994; amended effective September 1, 1999; amended effective September 1, 2005.]

RULES 27 through 37

(RESERVED)

RULE CRLJ 38
JURY TRIAL

(a) Demand. When a trial by jury is authorized by the constitution, statutes, or decisions of the Supreme Court, any party may demand a jury which shall be selected and impaneled as required by law and this rule. At or prior to the time the case is called to be set for trial, or at such other time as directed by the court, any party may demand a jury trial of any issue triable by a jury by serving upon the other parties a demand therefor in writing, by filing the demand with the clerk, and by paying any required jury fee.

(b) Specification of Issues. In the demand a party may specify the issues which it wishes tried by a jury; otherwise, the demand shall be considered a demand for all issues so triable. If the demand requests jury trial of only some of the issues, any other party within 14 days of service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(c) Waiver of Jury Trial. The failure of a party to serve a demand as required by this rule, to file it as required by this rule, and to pay the required jury fee in accordance with this rule, constitutes a waiver of trial by jury. A demand for trial by jury once made may not be withdrawn without the consent of the parties.

(d) Impaneling the Jury.

(1) Voir Dire. A voir dire examination shall be conducted for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of peremptory challenges. The judge shall initiate the voir dire examination by identifying the parties and their respective counsel and by briefly outlining the nature of the case. The judge and the parties may then ask the prospective jurors questions touching their qualifications to serve as jurors in the case, subject to the supervision of the court as appropriate to the facts of the case.

(2) Challenges for Cause. If the court is of the opinion that grounds for challenge to a juror exist, it shall excuse that juror. Otherwise, any party may challenge the juror for cause. Challenges for cause shall be allowed as provided in RCW 4.44.150 through 4.44.190.

(3) Peremptory Challenges. The number and the manner of exercising peremptory challenges shall be as provided in RCW 4.44.130, 4.44.140, and 4.44.190.

(4) Order of Taking Challenges. (Reserved. See RCW 4.44.220.)

(5) Objections to Challenges. (Reserved. See RCW 4.44.230.)

(6) Trial of Challenge. (Reserved. See RCW 4.44.240.)

(e) Alternate Jurors. The court may direct that not more than three jurors in addition to the regular jury be called and impaneled to serve as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior

to the time the jury retires to consider its verdict, are unable to continue. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges for cause, and shall take the same oath as the regular jurors. Each party shall be entitled to one additional peremptory challenge which may only be exercised against alternate jurors, and other peremptory challenges allowed shall not be used against alternate jurors. If the court has found that there is a conflict of interest between parties on the same side, the court may allow each conflicting party a peremptory challenge to exercise against alternate jurors. An alternate juror who does not replace a regular juror may be discharged or temporarily excused after the jury retires to consider its verdict. When an alternate juror is temporarily excused but not discharged, the trial judge shall take appropriate steps to protect such juror from influence, interference or publicity which might affect that jurors ability to remain impartial, and the trial judge may conduct brief voir dire before seating such alternate juror for any trial or deliberations. An alternate juror may be recalled at any time that a regular juror is unable to serve. If the jury has commenced deliberations prior to replacement of a regular juror with an alternate juror, the jury shall be instructed to disregard all previous deliberations and to begin deliberations anew.

(f) Juries of Fewer Than Six. The parties may at any time stipulate that the jury shall consist of at least three but fewer than six jurors, or that a verdict of a stated majority shall be taken as the verdict or finding of the jury.

(g) Oath. (Reserved. See RCW 4.44.260.)

(h) Note-Taking by Jurors. In all cases, jurors shall be allowed to take written notes regarding the evidence presented to them and keep these notes with them during their deliberation. The court may allow jurors to keep these notes with them in the jury room during recesses, in which case jurors may review their own notes but may not share or discuss the notes with other jurors until they begin deliberating. Such notes should be treated as confidential between the jurors making them and their fellow jurors, and shall be destroyed immediately after the verdict is rendered.

[Amended effective September 1, 1989; amended effective October 1, 2002.]

RULE 39

(RESERVED)

RULE 40
ASSIGNMENT OF CASES

(a) Notice of Trial--Note of Issue.

(1) Of Fact. At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least 3 days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least 5 days before the day of setting such causes for trial, file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.

(2) Of Law. In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least 5 days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.

(3) Adjournments. When a cause has once been placed upon either docket

of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court.

(4) Filing Note by Opposite Party. The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice on his part.

(5) Issue May Be Brought to Trial by Either Party. Either party, after the notice of trial, whether given by himself or the adverse party, may bring the issue to trial, and in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with his case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

(b) Methods. Each court of limited jurisdiction may provide by local rule for placing of actions upon the trial calendar (1) without request of the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deems expedient.

(c) Preferences. In setting cases for trial, unless otherwise provided by statute, preference shall be given to criminal over civil cases, and cases where the defendant or a witness is in confinement shall have preference over other cases.

(d) Trials. When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a continuance. The court may in a proper case, and upon terms, reset the same.

(e) Continuances. A motion to continue a trial on the ground of the absence of evidence shall only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it, and also the name and address of the witness or witnesses. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain; and if the adverse party admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be continued. The court, upon its allowance of the motion, may impose terms or conditions upon the moving party.

(f) Change of Judge. In any case pending in any court of limited jurisdiction, unless otherwise provided by law, the judge thereof shall be deemed disqualified to hear and try the case when he is in anywise interested or prejudiced. The judge, of his own initiative, may enter an order disqualifying himself; and he shall also disqualify himself under the provisions of this rule if, before the jury is sworn or the trial is commenced, a party files an affidavit that such party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge or for other ground provided by law. Only one such affidavit shall be filed by the same party in the case and such affidavit shall be made as to only one of the judges of said court.

All right to an affidavit of prejudice will be considered waived where filed more than 10 days after the case is set for trial, unless the affidavit alleges a particular incident, conversation or utterance by the judge, which was not known to the party or his attorney within the 10-day period. In multiple judge courts, or where a pro tempore or visiting judge is designated as the trial judge, the 10-day period shall commence on the date that the defendant or his attorney has actual notice of assignment or reassignment to a designated trial judge.

RULE CRLJ 41
DISMISSAL OF ACTIONS

(a) Voluntary Dismissal.

(1) Mandatory. Any action shall be dismissed by the court:

(i) By stipulation. When all parties who have appeared so stipulate in writing; or

(ii) By plaintiff before resting. Upon motion of the plaintiff at any time before plaintiff rests at the conclusion of his opening case.

(2) Permissive. After plaintiff rests after his opening case, plaintiff may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the court deems proper.

(3) Counterclaim. If a counterclaim has been pleaded by a defendant prior to the service upon him of plaintiffs motion for dismissal, the action shall not be dismissed against the defendants objection unless the counterclaim can remain pending for independent adjudication by the court.

(4) Effect. Unless otherwise stated in the order of dismissal, the dismissal is without prejudice, except that an order of dismissal operates as an adjudication upon the merits when obtained by a plaintiff who has once dismissed an action based on or including the same claim in any court of the United

States or of any state.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him.

(1) Want of Prosecution on Motion of Party. Any civil action shall be dismissed, without prejudice, for want of prosecution whenever the plaintiff, counterclaimant, cross claimant, or third party plaintiff neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

(2) Dismissal on Clerk's Motion.

(i) Notice. In all civil cases in which no action of record has occurred during the previous 12 months, the clerk of the court shall notify the attorneys of record by mail that the court will dismiss the case unless, within 30 days following the mailing of such, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date. If the court does not receive such a status report, it shall, on motion of the clerk, dismiss the case without prejudice and without cost to any party.

(ii) Mailing Notice; reinstatement. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

(iii) Discovery in Process. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

(iv) Other Grounds for Dismissal and Reinstatement. This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.

(3) Defendants Motion After Plaintiff Rests. After the plaintiff, in an action tried by the court without a jury, has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in RALJ 5.2. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under rule 19, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross Claim, or Third Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross claim, or third party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of taxable costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) Notice of Settlements. If a case is settled after it has been assigned for trial, it shall be the duty of the attorneys or of any party appearing pro se to notify the court promptly of the settlement. If the settlement is made within 5 days before the trial date, the notice shall be made by telephone or in person. All notices of settlement shall be confirmed in writing to the clerk.

[Amended effective September 1, 1997.]

RULE 42
CONSOLIDATION; SEPARATE TRIALS

(a) Consolidation. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate Trials. The court in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross claim, counterclaim, or third party claim, or of any separate issue or of any number of claims, cross claims, counterclaims, third party claims, or issues, always preserving inviolate the right of trial by jury.

RULE CRLJ 43
TAKING OF TESTIMONY

(a) Testimony.

(1) Generally. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute.

(2) Multiple Examinations. When two or more attorneys are upon the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

(b) and (c) (Reserved. See ER 103 and 611.)

(d) Oaths of Witnesses.

(1) Administration. The oaths of all witnesses

(i) shall be administered by the judge;
(ii) shall be administered to each witness individually; and
(iii) the witness shall stand while the oath is administered.

(2) Applicability. This rule shall not apply to civil ex parte proceedings, and in such cases the manner of swearing witnesses shall be as each court may prescribe.

(3) Affirmation in Lieu of Oath. Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(e) Evidence on Motions. When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(f) Adverse Party as Witness.

(1) Party or Managing Agent as Adverse Witness. A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association which is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in CR 30(b)(1) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in CR 26(c), the court may make orders for the protection of the party or managing agent to be examined.

(2) Effect of Discovery, etc. A party who has served interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. Matters admitted by an adverse party or managing agent in

interrogatory answers, deposition testimony, or trial testimony are not conclusively established and may be rebutted.

(3) Refusal To Attend and Testify; Penalties. If a party or a managing agent refuses to attend and testify before the officer designated to take his deposition or at the trial after notice served as prescribed in CR 30(b)(1), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(i) to compel any person to answer any question where such answer might tend to incriminate him;

(ii) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(iii) to limit the applicability of any other sanctions or penalties provided in CR 37 or otherwise for failure to attend and give testimony.

(g) Attorney as Witness. If any attorney offers himself as a witness on behalf of his client and gives evidence on the merits, he shall not argue the case to the jury, unless by permission of the court.

(h) Recording as Evidence. Whenever the testimony of a witness at a trial or hearing which was recorded is admissible in evidence at a later trial, it may be proved by the recording thereof duly certified by the person who recorded the testimony.

(i) (Reserved. See ER 804.)

(j) Record in Retrial of Nonjury Cases. In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and such cause shall have been tried without a jury, and the testimony in such cause shall have been taken in full and used as the record upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said record as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by him in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of subpoenaing any witness whose testimony is contained in such record for further cross examination.

(k) Juror Questions for Witnesses. The court shall permit jurors to submit to the court written questions directed to witnesses. Counsel shall be given an opportunity to object to such questions in a manner that does not inform the jury that an objection was made. The court shall establish procedures for submitting, objecting to, and answering questions from jurors to witnesses. The court may rephrase or reword questions from jurors to witnesses. The court may refuse on its own motion to allow a particular question from a juror to a witness.

[Adopted effective September 1, 1984; amended effective October 1, 2002; September 1, 2006.]

RULE 44
PROOF OF OFFICIAL RECORD

(a) Authentication.

(1) Domestic. An official record kept within the United States, or any state, district, commonwealth, territory, or within a territory subject to the administrative or judicial jurisdiction of the United States, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office or official custody of the seal of the political subdivision and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of the officer's office or the seal of the political subdivision.

(2) Foreign. A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, either admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records, designated by the statement, authenticated as provided in subsection (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subsection (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This rule does not prevent the proof of official records or of entry or lack of entry therein by any other method authorized by law.

RULE 44.1
DETERMINATION OF FOREIGN LAW

(a) Pleading. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States, or a foreign country shall give notice in his pleadings in accordance with rule 9(k).

(b) United States Jurisdiction. The law of a state, territory, or other jurisdiction of the United States shall be determined as provided in RCW 5.24.

(c) Other Jurisdictions. The court, in determining the law of any jurisdiction other than a state, territory, or other jurisdiction of the United States, may consider any relevant written material or other source, including testimony, having due regard for their trustworthiness, whether or not submitted by a party and whether or not admissible under the Rules of Evidence. If the court considers any material or source not received in open court, prior to its determination the court shall:

(1) Identify in the record such material or source;

(2) Summarize in the record any unwritten information received; and

(3) Afford the parties an opportunity to respond thereto. The courts determination shall be treated as a ruling on a question of law.

RULE 45
SUBPOENA

(a) For Attendance of Witnesses. The subpoena shall be issued as follows:

(1) Form. To require attendance before a court of limited jurisdiction or at the trial of an issue therein, such subpoena may be issued in the name of the State of Washington by the court before which the attendance is required or in which the issue is pending: Provided, That such subpoena may be issued with like effect by the attorney of record of the party to the action on whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the court except that it shall only be subscribed by the signature of such attorney.

(2) Issuance for Trial. To require attendance before a court of limited jurisdiction or at the trial of an issue of fact, the subpoena may be issued by the clerk in response by a praecipe or by an attorney of record.

(3) Issuance for Deposition. To require attendance out of such court before a judge, justice of the peace, commissioner, referee or other officer authorized to administer oaths or to take testimony in any matter under the laws of this state, it shall be issued by an attorney of record or by such judge, justice of the peace, commissioner, referee or other officer before whom the attendance is required.

(b) For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents,

or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) Service. A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy at the place of his abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(d) Subpoena for Taking Depositions; Place of Examination.

(1) Proof of service of a notice to take a deposition as provided in CR 30(b) and 31(a) constitutes a sufficient authorization for the issuance by the attorney of record or the officer taking the deposition of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by rule 26, but in that event the subpoena will be subject to the provisions of section (b) of this rule. The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

(2) Place of Examination. A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend only in the county wherein he is served with a subpoena, or within 40 miles from the place of service or at such other convenient place as is fixed by an order of the court.

(3) Foreign Depositions for Local Actions. When the place of examination is in another state, territory, or country, the party desiring to take the deposition may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory or country to require the deponent to attend the examination.

(4) Local Depositions for Foreign Actions. When any officer or person is authorized to take depositions in this state by the law of another state, territory or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any judge or justice of the peace of this state for attendance at any places within his jurisdiction.

(e) Subpoena for Hearing or Trial. (Reserved. See RCW 5.56.010.)

(f) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued.

(g) When Excused. A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as he has given his testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders; and witness fees will not be allowed any witness after the day on which his testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact in the minutes.

RULE 46
EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

RULE 47
JURORS

(a) Examination, Selection, etc. See rule 38.
(b) Care of Jury While Deliberating.
(1) Generally. During trial and deliberations the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury.
(2) Communication Restricted. Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor make any himself, unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.
(3) Motions. Any motions or proceedings concerning the separation or sequestration of the jury shall be made out of the presence of the jury.

RULE 48
JURIES OF FEWER THAN SIX

(Reserved. See RCW 12.12.030.)

RULE 49
VERDICTS

(-) General Verdict. A general verdict is that by which the jury pronounces generally upon all or any of the issues in favor of either the plaintiff or defendant.
(a) Special Verdict. The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his rights to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.
(b) General Verdict Accompanied by Answer to Interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered pursuant to rule 58. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered pursuant to rule 58 in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.
(c) Discharge of Jury. (Reserved. See RCW 12.12.080 and 12.12.090.)
(d) Court Recess During Deliberation. (Reserved. See RCW 4.44.350.)
(e) Proceedings When Jury Has Agreed. (Reserved. See RCW 4.44.360.)
(f) Manner of Giving Verdict. (Reserved. See RCW 4.44.370.)
(g) Verdict by Five Jurors in Civil Cases. (Reserved. See RCW 4.44.380.)
(h) Jury May Be Polled. (Reserved. See RCW 4.44.390.)
(i) Correction of Informal Verdict. (Reserved. See RCW 4.44.400.)
(j) Jury To Assess Amount of Recovery. (Reserved. See RCW 4.44.450.)
(k) Receiving Verdict and Discharging Jury. (Reserved. See RCW 12.12.080 and 12.12.090.)

RULE CRLJ 50
JUDGMENT AS A MATTER OF LAW IN JURY TRIALS; ALTERNATIVE MOTION FOR NEW TRIAL; CONDITIONAL RULINGS

(a) Judgment as a Matter of Law.

(1) Nature and Effect of Motion. If, during a trial by jury, a party has been fully heard with respect to an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find or have found for that party with respect to that issue, the court may grant a motion for judgment as a matter of law against that party on any claim, counterclaim, cross claim, or third party claim that cannot under the controlling law be maintained without a favorable finding on that issue. Such a motion shall specify the judgment sought and the law and the facts on which the moving party is entitled to judgment. A motion for judgment as a matter of law which is not granted is not a waiver of trial by jury even though all parties to the action have moved for judgment as a matter of law.

(2) When Made. A motion for judgment as a matter of law may be made at any time before submission of the case to the jury.

(b) Renewing Motion for Judgment After Trial; Alternative Motion for New Trial. If, for any reason, the court does not grant a motion for judgment as a matter of law made at the close of all the evidence, the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. The movant may renew its request for judgment as a matter of law by filing a motion no later than 10 days after entry of judgment - and may alternatively request a new trial or join a motion for a new trial under rule 59. In ruling on a renewed motion, the court may:

(1) if a verdict was returned:
    (A) allow the judgment to stand,
    (B) order a new trial, or
    (C) direct entry of judgment as a matter of law; or

(2) if no verdict was returned:
    (A) order a new trial, or
    (B) direct entry of judgment as a matter of law.

(c) Alternative Motions for Judgment as a Matter of Law or for a New Trial--Effect of Appeal. Whenever a motion for judgment as a matter of law and, in the alternative, for a new trial shall be filed and submitted in any court of limited jurisdiction in any civil cause tried before a jury, and such court shall enter an order granting such motion for judgment as a matter of law, such court shall at the same time, in the alternative, pass upon and decide in the same order such motion for a new trial; such ruling upon said motion for a new trial not to become effective unless and until the order granting the motion for judgment as a matter of law shall thereafter be reversed, vacated, or set aside in the manner provided by law. An appeal to the superior court from a judgment granted on a motion for judgment as a matter of law shall, of itself, without the necessity of cross appeal, bring up for review the ruling of the trial court on the motion for a new trial; and the superior court shall, if it reverses the judgment entered as a matter of law, review and determine the validity of the ruling on the motion for a new trial.

(d) Same: Denial of Motion for Judgment as a Matter of Law. If the motion for judgment as a matter of law is denied, the party who prevailed on that motion may, as appellee, assert grounds entitling the party to a new trial in the event the superior court concludes that the trial court erred in denying the motion for judgment. If the superior court reverses the judgment, nothing in this rule precludes it from determining that the appellee is entitled to a new trial, or from directing the trial court to determine whether a new trial shall be granted.

[Amended effective September 1, 1994; September 1, 2005.]

RULE CRLJ 51
INSTRUCTIONS TO JURY AND DELIBERATION

(a) Proposed. Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions shall be submitted when the case is called for trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before the court has instructed the jury.

(b) Submission. Submission of proposed instructions shall be by delivering the original and three or more copies as required by the trial judge, by filing one copy with the clerk, identified as the party's

proposed instructions, and by serving one copy upon each opposing counsel.

(c) Form. Each proposed instruction shall be typewritten or printed on a separate sheet of letter-size (8-1/2 by 11 inches) paper. Except for one copy of each, the instructions delivered to the trial court shall not be numbered or identified as to the proposing party. One copy delivered to the trial court, and the copy filed with the clerk, and copies served on each opposing counsel shall be numbered and identified as to proposing party, and may contain supporting annotations.

(d) Published Instructions.

(1) Request. Any instruction appearing in the Washington Pattern Instructions (WPI) may be requested by counsel who must submit the proper number of copies of the requested instruction, identified by number as in section (c) of this rule, in the form he wishes it read to the jury. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the written requested instruction shall use the choice of wording which is being requested.

(2) Record on Review. Where the refusal to give a requested instruction is an asserted error on review, a copy of the requested instruction shall be placed in the record on review.

(3) Local Option. Any court of limited jurisdiction may adopt a local rule to substitute for subsection (d)(1) and to allow instructions appearing in the Washington Pattern Instructions (WPI) to be requested by reference to the published number. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the local rule must require that the written request which designates the number of the instruction shall also designate the choice of wording which is being requested.

(e) Disregarding Requests. The trial court may disregard any proposed instruction not submitted in accordance with this rule.

(f) Objections to Instruction. Before instructing the jury, the court shall supply counsel with copies of its proposed instructions which shall be numbered. Counsel shall then be afforded an opportunity in the absence of the jury to make objections to the giving of any instruction and to the refusal to give a requested instruction. The objector shall state distinctly the matter to which he objects and the grounds of his objection, specifying the number, paragraph or particular part of the instruction to be given or refused and to which objection is made.

(g) Instructing the Jury and Argument. After counsel have completed their objections and the court has made any modifications deemed appropriate, the court shall then provide each counsel with a copy of the instructions in their final form. The court shall then read the instructions to the jury. The plaintiff or party having the burden of proof may then address the jury upon the evidence, and the law as contained in the courts instructions; after which the adverse party may address the jury; followed by the rebuttal of the party first addressing the jury.

(h) Deliberation. After argument, the jury shall retire to consider its verdict. In addition to the written instructions given, the jury shall take with it all exhibits received in evidence, except depositions. Copies may be substituted for any parts of public records or private documents as ought not, in the opinion of the court, to be taken from the person having them in possession. Pleadings shall not go to the jury room.

(i) Questions from Jury During Deliberations. The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff without any indication of the status of the jury's deliberations. The court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear or replay evidence, but should do so in a way that is least likely to be seen as a comment on the evidence, in a way that is not unfairly prejudicial and in a way that minimizes the possibility that jurors will give undue weight to such evidence. Any additional instruction upon any point of law shall be given in writing.

(j) Comments Upon Evidence. Judges shall not instruct with respect to matters of fact, nor comment thereon.

[Adopted effective September 1, 1984; amended effective October 1, 2002.]

FINDINGS BY THE COURT

(Reserved. See RALJ 5.2.)

RULE 53
MASTERS

(RESERVED)

RULE 53.1
REFEREES

(RESERVED)

RULE 53.2
COURT COMMISSIONERS

(Reserved. See RCW 3.42.)

RULE 54
JUDGMENTS; COSTS

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any final order from which an appeal lies. A judgment shall not contain a recital of pleadings or the record of prior proceedings. Judgments may be in writing signed by the court or may be oral confirmed by an entry in the record.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination in the judgment that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

(d) Costs. Costs shall be fixed and allowed as provided in RCW 12.20.060 or by any other applicable statute.

RULE 55
DEFAULT

(a) Entry of Default.

(1) Motion. When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit, a motion for default may be made.

(2) Pleading After Default. Any party may respond to any pleading or

otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed he may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this rule 55.

(3) Notice. Any party who has appeared in the action for any purpose, shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitled to a notice of the motion, except as provided in subsection (f)(2)(i).

(4) Venue. A motion for default shall include a statement of the basis for venue in the action. A default shall not be entered if it clearly appears to the court from the papers on file that the action was brought in an improper district.

(b) Entry of Default Judgment. As limited in rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by subsection (b)(4):

(1) When Amount Certain. When the claim against a party, whose default has been entered under section (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit of the amount due shall enter judgment for that amount and costs against the party in default, if he is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this subsection even though reasonable attorney fees are requested and allowed.

(2) When Amount Uncertain. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as are deemed necessary or, when required by statute, shall have such matters resolved by a jury. Findings of fact and conclusions of law are required under this subsection.

(3) When Service by Publication or Mail. In an action where the service of the summons was by publication, or by mail under rule 4(d)(4), the plaintiff, upon the expiration of the time for answering, may, upon proof of service, apply for judgment. The court must thereupon require proof of the demand mentioned in the complaint, and must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to anyone for his use on account of such demand, and may render judgment for the amount which he is entitled to recover, or for such other relief as he may be entitled to.

(4) Costs and Proof of Service. Costs shall not be awarded and default judgment shall not be rendered unless proof of service is on file with the court.

(c) Setting Aside Default.

(1) Generally. For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with rule 60(b).

(2) When Venue Is Improper. A default judgment entered in a district of improper venue is valid but will on motion be vacated for irregularity pursuant to rule 60(b)(1). A party who procures the entry of the judgment shall, in the vacation proceedings, be required to pay to the party seeking vacation the costs and reasonable attorney fees incurred by the party in seeking vacation if the party procuring the judgment could have determined the district of proper venue with reasonable diligence. This subsection does not apply if either (i) the parties stipulate in writing to venue after commencement of the action, or (ii) the defendant has appeared, has been given written notice of the motion for an order of default, and does not object to venue before the entry of the default order.

(d) Plaintiffs, Counterclaimants, Cross Claimants. The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third party plaintiff, or a party who has pleaded a cross claim or counterclaim. In all cases a judgment by default is subject to the limitations of rule 54(c).

(e) Judgment Against State. (Reserved.)

(f) How Made After Elapse of Year.

(1) Notice. When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit of the service of the notice shall be filed before entry of the judgment.

(2) Service. Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

(i) by service upon the attorney of record;

(ii) if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or

(iii) by a personal service upon the defendant in the same manner provided for service of process.

(iv) If service of notice cannot be made under sections (i) and (iii), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each

defendant. Both the publication and mailing shall be done 10 days prior to the hearing.

RULE 56
SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, at any time after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings. The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party, prior to the day of hearing, may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

RULE 57

(RESERVED)

RULE CRLJ 58
ENTRY OF JUDGMENT

Upon the verdict of a jury, the court shall immediately render judgment thereon. If the trial is by the judge, judgment shall be entered immediately after the close of the trial, unless he or she reserves decision, in which event the decision shall be rendered within 45 days.

[Amended effective September 1, 1994.]

RULE CRLJ 59
NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS

(a) Grounds for New Trial or Reconsideration. On the motion of the party aggrieved, a verdict may be vacated and a new trial granted to all or any of the parties, and on all of the issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial;

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

(6) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

(7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

(8) Error in law occurring at the trial and objected to at the time by the party making the application; or

(9) That substantial justice has not been done.

(b) Time for Motion; Contents of Motion. A motion for a new trial or for reconsideration shall be filed not later than 10 days after the entry of the judgment, order, or other decision. The motion shall be noted at the time it is filed, to be heard or otherwise considered within 30 days after entry of the judgment, order, or other decision, unless the court directs otherwise.

A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) Time for Serving Affidavits. When a motion for new trial is based on affidavits, they shall be filed with the motion. The opposing party has 10 days after service to file opposing affidavits, but that period may be extended for up to 20 days, either by the court for good cause or by the parties' written stipulation. The court may permit reply affidavits.

(d) On Initiative of Court. Not later than 10 days after entry of judgment, the court on its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard, the court may grant a timely motion for a new trial for a reason not stated in the motion. When granting a new trial on its own

initiative or for a reason not stated in the motion, the court shall specify the grounds in its order.

(e) Hearing on Motion. When a motion for reconsideration or for a new trial is served and filed, the judge by whom it is to be heard may on the judge's own motion or on application determine:

(1) Time of Hearing. Whether the motion shall be heard before the entry of judgment;

(2) Consolidation of Hearings. Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and

(3) Nature of Hearing. Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

(f) Statement of Reasons. In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record that cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

(g) Reopening Judgment. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law, and direct the entry of a new judgment.

(h) Motion To Alter or Amend Judgment. A motion to alter or amend the judgment shall be filed not later than 10 days after entry of the judgment.

(i) Alternative Motions, etc. Alternative motions for judgment as a matter of law and for a new trial may be made in accordance with rule 50(c).

(j) Limit on Motions. If a motion for reconsideration, or for a new trial, or for judgment as a matter of law, is made and heard before the entry of the judgment, no further motion may be made, without leave of the court first obtained for good cause shown: (1) for a new trial, or (2) pursuant to sections (g), (h), and (i) of this rule.

[Adopted effective September 1, 1984; September 1, 2005.]

RULE 60
RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RALJ 4.1(b).

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings;

(3) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b);

(4) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(5) The judgment is void;

(6) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application;

(7) If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;

(8) Death of one of the parties before the judgment in the action;

(9) Unavoidable casualty or misfortune preventing the party from

prosecuting or defending;
(10) Error in judgment shown by a minor, within 12 months after arriving at full age; or
(11) Any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time and for reasons (1), (2) or (3) not more than 1 year after the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under section (b) does not affect the finality of the judgment or suspend its operation.
(c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.
(d) Writs Abolished--Procedure. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.
(e) Procedure on Vacation of Judgment.
(1) Motion. Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit of the applicant or his attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a defendant, the facts constituting a defense to the action or proceeding.
(2) Notice. Upon the filing of the motion and affidavit, the court shall enter an order fixing the time and place of the hearing thereof and directing all parties to the action or proceeding who may be affected thereby to appear and show cause why the relief asked for should not be granted.
(3) Service. The motion, affidavit, and the order to show cause shall be served upon all parties affected in the same manner as in the case of summons in a civil action at such time before the date fixed for the hearing as the order shall provide; but in case such service cannot be made, the order shall be published in the manner and for such time as may be ordered by the court, and in such case a copy of the motion, affidavit, and order shall be mailed to such parties at their last known post office address and a copy thereof served upon the attorneys of record of such parties in such action or proceeding such time prior to the hearing as the court may direct.

RULE 61
HARMLESS ERROR

(RESERVED)

RULE 62
STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) Automatic Stays. (Reserved. See RALJ 4.2.)
(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to rule 59, or of a motion for relief from a judgment or order made pursuant to rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to rule 50, or of a motion for amendment to the findings or for additional findings.
(c) (Reserved.)
(d) (Reserved.)
(e) (Reserved.)
(f) Other Stays. This rule does not limit the right of a party to a stay otherwise provided by statute or rule.
(g) (Reserved.)
(h) Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

RULE CRLJ 63

JUDGES--DISABILITY

If by reason of death, sickness or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are entered, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if such other judge is satisfied that he or she cannot perform those duties because the judge did not preside at the trial or for any other reason, the judge may in the exercise of discretion grant a new trial.

[Adopted effective September 1, 1984; Amended effective November 25, 2003]

RULE 64
GARNISHMENT

(RESCINDED)

RULES 65 through 67

(RESERVED)

RULE 68
OFFER OF JUDGMENT

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

RULE 69

(RESERVED)

RULE CRLJ 70.1
APPEARANCE BY ATTORNEY

(a) Notice of Appearance. An attorney admitted to practice in this state may appear for a party by serving a notice of appearance.

(b) Notice of Limited Appearance. If specifically so stated in a notice of limited appearance filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action. Service on an attorney who has made a limited appearance for a party shall be valid (to the extent permitted by statute and rule 5(b)) only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. At the conclusion of such proceedings the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance which notice shall include the client information required by Rule 71(c)(1).

RULE 71
WITHDRAWAL BY ATTORNEY

(a) Withdrawal by Attorney. Service on an attorney who has appeared for a party in a civil proceeding shall be valid to the extent permitted by statute and rule 5(b) only until the attorney has withdrawn in the manner provided in sections (b), (c), and (d). Nothing in this rule defines the circumstances under which a withdrawal might be denied by the court.

(b) Withdrawal by Order. A court appointed attorney may not withdraw without an order of the court. The client of the withdrawing attorney must be given notice of the motion to withdraw and the date and place the motion will be heard.

(c) Withdrawal by Notice. Except as provided in sections (b) and (d) , an attorney may withdraw by notice in the manner provided in this section.

(1) Notice of Intent To Withdraw. The attorney shall file and serve a Notice of Intent To Withdraw on all other parties in the proceeding. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the Notice of Intent To Withdraw. The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. If notice is given before trial, the notice shall include the date set for trial. The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney, unless disclosure of the address would violate the Rules of Professional Conduct, in which case the address may be omitted. If the address is omitted, the notice must contain a statement that after the attorney withdraws, and so long as the address of the withdrawing attorney's client remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the clerk of the court pursuant to rule 5(b)(1).

(2) Service on Client. Prior to service on other parties, the Notice of Intent To Withdraw shall be served on the persons represented by the withdrawing attorney or sent to them by certified mail, postage prepaid, to their last known mailing addresses. Proof of service or mailing shall be filed, except that the address of the withdrawing attorney's client may be omitted under circumstances defined by subsection (c)(1) of this rule.

(3) Withdrawal Without Objection. The withdrawal shall be effective, without order of court and without the service and filing of any additional papers, on the date designated in the Notice of Intent To Withdraw, unless a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the day of withdrawal in the Notice of Intent To Withdraw.

(4) Effect of Objection. If a timely written objection is served, withdrawal may be obtained only by order of the court.

(d) Withdrawal and Substitution. Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, Washington State Bar Association membership number, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

CRLJ 72
APPEAL TO SUPERIOR COURT

(a) Types of Appeals. An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. Under RALJ 1.1, the appeal from some courts is an appeal for error on the record, and the appeal from other courts is conducted as a trial de novo or a trial de

novo on the record, as set forth in section (b) below. The procedures for an appeal for error on the record are defined by the RALJ. The procedures for a trial de novo and a trial de novo on the record are defined by CRLJ 73 and 75 below.

(b) Small Claims Court Appeals. An appeal from a decision of a small claims court operating under RCW Chapter 12.40 shall be a trial de novo on the record from the court of limited jurisdiction.

[Adopted effective September 1, 1984; amended effective October 30, 2001.]

CRLJ RULE 73
TRIAL DE NOVO

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Filing Notice of Appeal -- Service.

(1) A party appealing a judgment or decision subject to this rule must file in the court of limited jurisdiction a notice of appeal within 30 days after the judgment is rendered or decision made. Filing the notice of appeal is the only jurisdictional requirement for an appeal.

(2) The statutory filing fee for superior court must be paid to the clerk of the limited jurisdiction court at the time the notice of appeal is filed, unless the party is excused from paying a filing fee by statute or by the constitution.

(3) The clerk of the court of limited jurisdiction shall immediately upon filing of a notice of appeal and payment of the filing fee, if required, file a copy of the notice with the superior court.

(4) A party filing a notice of appeal shall also, within the same 30 days, serve a copy of the notice of appeal on all other parties or their lawyers and file an acknowledgment or affidavit of service in the court of limited jurisdiction.

(c) Bond. A bond or undertaking shall be executed on the part of the appellant, except when the appellant is a county, city, town or school district, and filed with and approved by the court of limited jurisdiction with one or more sureties, in the sum of $100, conditioned that the appellant will pay all costs that may be awarded against him on appeal; or if a stay of proceedings in the court of limited jurisdiction be claimed, except by a county, city, town or school district, a bond or undertaking, with two or more personal sureties, or a surety company as surety, to be approved by the court of limited jurisdiction, in a sum equal to twice the amount of the judgment and costs, conditioned that the appellant will pay such judgment, including costs, as may be rendered against him on appeal, be so executed and filed.

(d) Stay of Proceedings. Upon an appeal being taken and a bond filed to stay all proceedings, the court of limited jurisdiction shall allow the same and make an entry of such allowance, and all further proceedings on the judgment in such court shall thereupon be suspended; and if in the meantime execution shall have been issued, such court shall give the appellant a certificate that such appeal has been allowed.

(e) Release of Property Taken on Execution. On such certificate being presented to the officer holding the execution, he shall forthwith release the property of the judgment debtor that may have been taken on execution.

(f) No Dismissal for Defective Bond. No appeal allowed by a court of limited jurisdiction shall be dismissed on account of any defect in the bond on appeal, if the appellant, before the motion is determined, shall execute and file in the superior court such bond as he should have executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect.

(g) Judgment Against Appellant and Sureties. In all cases of appeal to the superior court, if on the trial anew in such court, the judgment be against the appellant in whole or in part, such judgment shall be rendered against him and his sureties on the bond on appeal.

[Amended effective September 1, 1995; September 1, 1998.]

RULE 74

(RESERVED)

CRLJ 75
RECORD ON TRIAL DE NOVO

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Transcript; Procedure in Superior Court; Pleadings in Superior Court. Within 14 days after the notice of appeal has been filed in a civil action or proceeding, including a small claims appeal pursuant to RCW 12.40, the appellant shall file with the clerk of the superior court a transcript of all entries made in the docket of the court of limited jurisdiction relating to the case, together with all the process and other papers relating to the case filed in the court of limited jurisdiction which shall be made and certified by such court to be correct upon the payment of the fees allowed by law therefor, and upon the filing of such transcript the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as provided in these rules. The issue before the court of limited jurisdiction shall be tried in the superior court without other or new pleadings, unless otherwise directed by the superior court.

(c) Small Claims Appeals; Trial De Novo on the Record. Small claims appeals pursuant to RCW 12.40 shall be tried by the superior court de novo on the record. Within 14 days after the notice of appeal has been filed in a small claims proceeding, appellant shall cause to be filed with the clerk of the superior court a verbatim electronic recording of the trial of the matter in district court and any exhibits from the trial. The electronic recording shall be made and certified by the district court to be correct upon the payment of the fees allowed by law therefor.

(d) Transcript; Procedure on Failure To Make and Certify; Amendment. If upon an appeal being taken the court of limited jurisdiction fails, neglects or refuses, upon the tender or payment of the fees allowed by law, to make and certify the transcript, the appellant may make application, supported by affidavit, to the superior court and the court shall issue an order directing the court of limited jurisdiction to make and certify such transcript upon the payment of such fees. Whenever it appears to the satisfaction of the superior court that the return of the court of limited jurisdiction to such order is substantially erroneous or defective it may order the court of limited jurisdiction to amend the same. If the judge of the court of limited jurisdiction fails, neglects or refuses to comply with any order issued under the provisions of this section he may be cited and punished for contempt of court.

[Adopted effective September 1, 1984; amended effective October 30, 2001.]

CRLJ 75A

ELECTRONIC RECORDING OF SMALL CLAIMS PROCEEDINGS

(a) Generally. Small claims proceedings in a court of limited jurisdiction shall be recorded by electronic means.

(b) Nonelectronic Record in Emergency. In the event of an equipment failure or other situation making an electronic recording impossible, the court may order the proceeding to be recorded by nonelectronic means. The nonelectronic record must be made at the court's expense, and in the event of an appeal, any necessary transcription of the nonelectronic record must be made at the court's expense.

(c) Statements to Be Made on the Record. At the beginning of the case, the judge of the court of limited jurisdiction shall state on the record the name and number of the case and the names of the parties. During the trial of the case, the judge shall state on the record or have stated on the record the names of any

or all witnesses as they appear in the course of the proceeding.

(d) Log. The judge of the court of limited jurisdiction shall cause a written log to be maintained separate from the recording indicating the location on the electronic record of relevant events in the proceedings, including but not limited to the beginning of the proceeding, the beginning and ending of the testimony of each witness, the decision of the court, and the end of the proceeding.

(e) Loss or Damage of Electronic Record. In the event of loss or damage of the electronic record, or any significant or material portion thereof, the appellant, upon motion to the superior court, shall be entitled to a new trial, but only if the loss or damage of the record is not attributable to the appellant's malfeasance. The court of limited jurisdiction shall have the authority to determine whether or not significant or material portions of the electronic record have been lost or damaged, subject to review by the superior court upon motion.

[Adopted effective October 30, 2001.]

RULE 76

(RESERVED)

RULE 77

(RESERVED)

RULE 77.04
ADMINISTRATION OF OATH

The oaths or affirmations of all witnesses
(1) Shall be administered by the judge;
(2) Shall be administered to each witness on coming to the stand, not to a group and in advance; and
(3) The witness shall stand while the oath or affirmation is pronounced.

RULES 78 through 80

(RESERVED)

RULE 81
APPLICABILITY IN GENERAL

(a) To What Proceedings Applicable. These rules govern all civil proceedings except as provided in this rule. These rules do not apply where inconsistent with rules or statutes applicable to special proceeding or infractions. These rules do not apply to proceedings in small claims court. In a court in which the proceedings are not recorded and review is by a trial de novo, these rules apply to the extent practicable; in these courts, rules referring to recording or an appeal on the record should be disregarded.

(b) Conflicting Statutes and Rules. Subject to the provisions of section (a) of this rule, these rules supersede all procedural statutes and other rules that may be in conflict.

RULE 82
JURISDICTION AND VENUE--UNAFFECTED

These rules shall not be construed to extend or limit the jurisdiction of the courts of limited jurisdiction or the venue of actions therein.

RULE 83
LOCAL RULES

(a) Adoption. Each court of limited jurisdiction by action of a majority of the judges may from time to time make and amend local rules governing its practice not inconsistent with these rules.

(b) Filing With the Administrator for the Courts. Local rules and amendments become effective only after they are filed with the state Administrator for the Courts in accordance with GR 7.

RULE 84

(RESERVED)

RULE 85
TITLE

These rules may be known and cited as Civil Rules for Courts of Limited Jurisdiction and they may be referred to as CRLJ.

RULE 86
EFFECTIVE DATE

These rules take effect on the dates specified by the Supreme Court and thereafter all procedural laws in conflict therewith shall be of no further force and effect. They govern all proceedings in actions after they take effect, and also all further proceedings in actions pending on their effective dates, except to the extent that in the opinion of the court, expressed by its order, the application of rules in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the procedure existing at the time the action was brought applies.

RULES 86.04 through 99.04

(RESERVED)

CRIMINAL RULES FOR COURTS OF LIMITED JURISDICTION (CrRLJ)

TABLE OF RULES

RULE 1.1
SCOPE

These rules govern the procedure in the courts of limited jurisdiction of the State of Washington in all criminal proceedings and supersede all procedural statutes and rules that may be in conflict. They shall be interpreted and supplemented in light of the common law and the decisional law of this state. These rules shall not be construed to affect or derogate from the constitutional rights of any defendant.

RULE 1.2
PURPOSE AND CONSTRUCTION

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration, effective justice, and the elimination of unjustifiable expense and delay.

RULE 1.3
EFFECT

Except as otherwise provided elsewhere in these rules, on their effective date:

(a) Any acts done before the effective date in any proceedings then pending or any action taken in any proceeding pending under rules of procedure in effect prior to the effective date of these rules are not impaired by these rules.

(b) These rules also apply to any proceedings in court then pending or thereafter commenced regardless of when the proceedings were commenced, except to the extent that in the opinion of the court, the former procedure should continue to be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedures of these rules.

RULE 1.4
DEFINITIONS

As used in these rules, unless the context clearly requires otherwise:

(a) "Court" means any court of limited jurisdiction.

(b) "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized, alone or with others, to

hold or preside over a court.
(c) "Prosecuting authority" includes prosecuting attorneys, city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute.
(d) "Court day" means any day on which a court is open for the transaction of administrative business, including but not limited to the acceptance of papers for filing.

RULE 1.5
STYLE AND FORM

The format requirements for papers being filed with a court are as specified in GR 14, except exhibits, the citation and notice, and forms approved by the Office of the Administrator for the Courts, need not be on letter-size paper (8-1/2 by 11 inches). The citation and notice shall be on a form prescribed or approved by the Office of the Administrator for the Courts.

RULE 1.6
CONDUCT OF COURT

All judicial proceedings and trials shall be conducted in accordance with these rules. If no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these rules, or with any applicable statute. Questions pertaining to the conduct of the court and not covered by these rules or appropriate statutes shall be determined by the trial judge.

RULE 1.7
LOCAL COURT RULES AVAILABILITY

Courts of limited jurisdiction may adopt in accordance with GR 7 such special rules not inconsistent with these general rules as they may deem necessary for their respective courts. The court, upon the adoption of such rules, shall keep a copy of them readily available for inspection.

RULE 1.8
TITLE OF RULES

These rules may be known and cited as Criminal Rules for Courts of Limited Jurisdiction, and shall be referred to as CrRLJ.

RULE CrRLJ 2.1
COMPLAINT--CITATION AND NOTICE

(a) Complaint.

(1) Initiation. Except as otherwise provided in this rule, all criminal proceedings shall be initiated by a complaint.

(2) Nature. The complaint shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting authority. Allegations made in one count may be incorporated by reference in another count. It may be alleged that the means by which the defendant committed the offense are unknown or that he or she committed it by one or more specified means. The complaint shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the complaint or for reversal of a conviction if the error or omission did not mislead the defendant to his or her prejudice.

(3) Contents. The complaint shall contain or have attached to it the following information when filed with the court:

(i) the name, address, date of birth, and sex of the defendant;

(ii) all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number.

(b) Citation and Notice To Appear.

(1) Issuance. Whenever a person is arrested or could have been arrested pursuant to statute for a violation of law which is punishable as a misdemeanor or gross misdemeanor the arresting officer, or any other authorized peace officer, may serve upon the person a citation and notice to appear in court. Criminal citations shall be on a form entitled "Criminal Citation" prescribed by the Administrative Office of the Courts. Citation forms prescribed by the Administrative Office of the Courts are presumed valid.

(2) Release Factors. In determining whether to release the person or to hold him or her in custody, the peace officer shall consider the following factors:

(i) whether the person has identified himself or herself satisfactorily;

(ii) whether detention appears reasonably necessary to prevent imminent bodily harm to himself, herself, or another, or injury to property, or breach of the peace;

(iii) whether the person has ties to the community reasonably sufficient to assure his or her appearance or whether there is substantial likelihood that he or she will refuse to respond to the citation and notice; and

(iv) whether the person previously has failed to appear in response to a citation and notice issued pursuant to this rule or to other lawful process.

(3) Contents. The citation and notice to appear shall include or have attached to it:

(i) the name of the court and a space for the court's docket, case or file number;

(ii) the name, address, date of birth, and sex of the defendant; and all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number;

(iii) the date, time, place, numerical code section, description of the offense charged, the date on which the citation was issued, and the name of the citing officer;

(iv) the time and place the person is to appear in court, which may not exceed 20 days after the date of the citation and notice, but which need not be a time certain.

(4) Certificate. The citation and notice shall contain a form of certificate by the citing official that he or she certifies, under penalties of perjury, as provided by RCW 9A.72.085, and any law amendatory thereto, that he or she has probable cause to believe the person committed the offense charged contrary to law. The certificate need not be made before a magistrate or any other person.

(5) Initiation. When signed by the citing officer and filed with a court of competent jurisdiction, the citation and notice shall be deemed a lawful complaint for the purpose of initiating prosecution of the offense charged therein.

(c) Citizen Complaints. Any person wishing to institute a criminal action alleging a misdemeanor or gross misdemeanor shall appear before a judge empowered to commit persons charged with offenses against the State, other than a judge pro tem. The judge may require the appearance to be made on the record, and under oath. The judge may consider any allegations on the basis of an affidavit sworn to before the judge. The court may also grant an opportunity at said hearing for evidence to be given by the county prosecuting attorney or deputy, the potential defendant or attorney of record, law enforcement or other potential witnesses. The court may also require the presence of other potential witnesses.

In addition to probable cause, the court may consider:

(1) Whether an unsuccessful prosecution will subject the State to costs or damage claims under RCW 9A.16.110, or other civil proceedings;

(2) Whether the complainant has adequate recourse under laws governing small claims suits, anti-harassment petitions or other civil actions;

(3) Whether a criminal investigation is pending;

(4) Whether other criminal charges could be disrupted by allowing the citizen complaint to be filed;

(5) The availability of witnesses at trial;

(6) The criminal record of the complainant, potential defendant and potential witnesses, and whether any have been convicted of crimes of dishonesty as defined by ER 609; and

(7) Prosecution standards under RCW 9.94A.440.

If the judge is satisfied that probable cause exists, and factors (1) through (7) justify filing charges, and that the complaining witness is aware of the gravity of initiating a criminal complaint, of the necessity of a court appearance or appearances for himself or herself and witnesses, of the possible liability for false arrest and of the consequences of perjury, the judge may authorize the citizen to sign and file a complaint in the form prescribed in CrRLJ 2.1(a). The affidavit may be in substantially the following form:

THE STATE OF WASHINGTON)
) ss. No. _____
COUNTY OF _____)

AFFIDAVIT OF COMPLAINING WITNESS

DEFENDANT:

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

WITNESSES:

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

Name _____ Name _____
Address _____ Address _____
Phone _____ Bus. _____ Phone _____ Bus. _____

I, the undersigned complainant, understand that I have the choice of complaining to a prosecuting authority rather than signing this affidavit. I elect to use this method to start criminal proceedings. I understand that the following are some but not all of the consequences of my signing a criminal complaint: (1) the defendant may be arrested and placed in custody; (2) the arrest if proved false may result in a lawsuit against me; (3) if I have sworn falsely I may be prosecuted for perjury; (4) this charge will be prosecuted even though I might later change my mind; (5) witnesses and complainant will be required to appear in court on the trial date regardless of inconvenience, school, job, etc.

Following is a true statement of the events that led to filing this charge. I (have)(have not) consulted with a prosecuting authority c oncerning this incident.

On the ____ day of _____, 19__, at _____.
(location)

_____

Signed _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 19__.

_____
Judge

(d) Filing.

(1) Original. The original of the complaint or citation and notice shall be filed with the clerk of the court.

(2) Time. The citation and notice shall be filed with the clerk of the court within two days after issuance, not including Saturdays, Sundays or holidays. A citation and notice not filed within the time limits of this rule may be dismissed without prejudice.

[Amended effective March 18, 1994; July 2, 1996; September 1, 1999; November 21, 2006; May 6, 2008.]

RULE CrRLJ 2.2
WARRANT OF ARREST OR SUMMONS UPON COMPLAINT

(a) Issuance of Warrant of Arrest.

(1) Generally. If a complaint is filed and if the offense charged may be tried in the jurisdiction in which the warrant issues, and if the sentence for the offense charged may include confinement in jail, the court may direct the clerk to issue a warrant for the arrest of the defendant unless the defendant has already been arrested in connection with the offense charged and is in custody or has been released on obligation to appear in court.

(2) Probable Cause. A warrant of arrest must be supported by an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The evidence shall be preserved. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. The evidence shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(3) Ascertaining Defendant's Current Address.

(i) Search for Address. The court shall not issue a warrant unless it determines that the complainant has attempted to ascertain the defendant's current address by searching the following: (A) the District Court Information system database (DISCIS), (B) the driver's license and identicard database maintained by the Department of Licenses; and (C) the database maintained by the Department of Corrections listing persons incarcerated and under supervision. The court in its discretion may require that other databases be searched.

(ii) Exemptions from Address Search. The search required by subdivision (i) shall not be required if (A) the defendant has already appeared in court (in person or through counsel) after filing of the same case, (B) the defendant is known to be in custody, or (C) the defendant's name is unknown.

(iii) Effect of Erroneous Issuance. If a warrant is erroneously issued in violation of this subsection (a)(3), that error shall not affect the validity of the warrant.

(b) Issuance of Summons in Lieu of Warrant.

(1) Generally. If a complaint is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) When Summons Must Issue. The court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant (i) will not appear in response to a summons, (ii) will commit a violent offense, (iii) will interfere with witnesses or the administration of justice, or (iv) is in custody..

(3) Summons for Felony Complaint. If the complaint charges the commission of a felony, the court may direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(4) Summons. A summons shall be in writing and in the name of the charging jurisdiction, shall be signed by the clerk with the title of that office, and shall state the date when issued. It shall state the name of the defendant and the nature of the charge, and shall summon the defendant to appear before the court at a stated time and place. The summons shall inform the defendant that failure to appear as commanded may result in the issuance of a warrant for the arrest of the accused.

(5) Failure To Appear on Summons. If a person fails to appear in response to a summons, or if delivery is not effected within a reasonable time, a warrant of arrest may issue, if the sentence for the offense charged may include confinement in jail.

(c) Requisites of a Warrant. The warrant shall be in writing and in the name of the charging jurisdiction, shall be signed by the judge or clerk with the title of that office, and shall state the date when issued. It shall specify the name of the defendant, or if his or her name is unknown, any name or description by which he or she can be identified with reasonable certainty. The warrant shall specify the offense charged against the defendant and that the court has found that probable cause exists to believe the defendant has committed the offense charged and shall command the defendant be arrested and brought forthwith before the court issuing the warrant. If the offense is not a capital offense, the court shall set forth in the order for the warrant,

bail and/or other conditions of release.

(d) Execution; Service.

(1) Execution of Warrant. The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) Delivery of Summons. The summons may be served any place within the state. It may be served by a peace officer, who shall deliver a copy of the same to the defendant personally, or it may be delivered by the court mailing the same, postage prepaid, to the defendant at his or her last known address.

(e) Return. The officer executing a warrant shall make return thereof to the court before whom the defendant is brought pursuant to these rules. At the request of the prosecuting authority any unexecuted warrant shall be returned to the issuing court to be canceled. The peace officer to whom a summons has been given for service shall, on or before the return date, file a return thereof with the court before whom the summons is returnable. For reasonable cause, the court may order that the warrant be returned to it.

(f) Defective Warrant or Summons.

(1) Amendment. No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any irregularity in the warrant or summons, but the warrant or summons may be amended so as to remedy any irregularity.

(2) Issuance of New Warrant or Summons. If during the preliminary examination of any person arrested under a warrant or appearing in response to a summons, it appears that the warrant or summons does not properly name or describe the defendant or the offense with which he or she is charged, or that although not guilty of the offense specified in the warrant or summons, there is reasonable ground to believe that he or she will be charged with some other offense, the judge shall not discharge or dismiss the defendant but may allow a new complaint to be filed and shall thereupon issue a new warrant or summons.

(g) Failure to Issue Warrant---Dismissal. Upon five days' notice to the prosecuting attorney, the court shall dismiss a charge without prejudice if (i) 90 days have elapsed since the citation or complaint was filed and (ii) on the date that the order of dismissal is entered, no warrant has been issued and the defendant has not appeared in court.

[Amended effective September 1, 1991; September 1, 1995; September 1, 2003; September 1, 2006.]

RULE 2.3
SEARCH AND SEIZURE

(a) Authority To Issue Warrant. A search warrant authorized by this rule may be issued by the court upon request of a peace officer or the prosecuting authority.

(b) Property or Persons Which May Be Seized With a Warrant. A warrant may be issued under this rule to search for and seize any (1) evidence of a crime; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or (4) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Issuance and Contents. A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephonic statement. The sworn testimony must be in writing, recorded electronically, or otherwise preserved. The record shall include any additional evidence relied upon by the court. The recording, or a duplication of the recording, shall be a part of the court record and shall be provided if requested by a party or if ordered by the court, subject to the provisions of rule 8.10. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purposes to affix the court's signature to a warrant. The warrant may be directed to any peace officer. The warrant shall command the officer

to search, within a specified period of time not to exceed 10 days, the person, place or thing named for the property or person specified. It shall designate the court to which it shall be returned. It shall be returned to the issuing court, and filed in the public files of the court unless ordered sealed by the court. Unless otherwise designated by the issuing court, the warrant may be served at any time of day or night.

(d) Execution and Return With Inventory. The peace officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, the officer may post a copy of the search warrant and receipt. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property is taken, or in the presence of at least one person other than the officer. The court shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property. A person may move the issuing court for the return of the property seized under the warrant on the ground that the property was illegally seized, or does not appear relevant or reasonably calculated to lead to the discovery of relevant evidence, and that the person is lawfully entitled to possession of the property. The motion shall be filed in the court which issued the warrant and a copy served upon the chief executive of the law enforcement agency that obtained the warrant. Proof of service shall be filed with the court. The prosecuting authority's assertion that property lawfully seized is relevant or reasonably calculated to lead to the discovery of relevant evidence shall be binding on the court.

(1) Procedure if Charges Pending. If a motion based on the ground that property was illegally seized is made or comes on for hearing after a complaint or citation and notice is filed in the court in which the motion is pending, it shall be treated as a motion to suppress. If charges are pending in another court at the time a motion made upon any ground is filed or comes on for hearing, the motion shall be transferred to the other court and subject to its rules of procedure.

(2) Procedure if No Charges Pending. If no charges are pending in any court at the time the motion is made, the issuing court shall set the motion for hearing not less than 30 days from the date of the filing or service of the motion, whichever is later.

(3) Procedure if Motion Granted. If the motion is granted, the property shall be returned unless the prosecuting authority seeks review within 14 days.

(f) Searches of Media.

(1) Scope. If an application for a search warrant is governed by RCW 10.79.015(3) or 42 U.S.C. subsection 2000aa et seq., this section controls the procedure for obtaining the evidence.

(2) Subpoena Duces Tecum. Except as provided in subsection (3), if the court determines that the application satisfies the requirements for issuance of a warrant, as provided in section (c) of this rule, the court shall issue a subpoena duces tecum in accordance with CRLJ 45(b).

(3) Warrant. If the court determines that the application satisfies the requirements for issuance of a warrant and that RCW 10.79.015(3) and 42 U.S.C. subsection 2000aa et seq. permit issuance of a search warrant rather than a subpoena duces tecum, the court may issue a warrant.

(g) Motion for Suppression. Absent prejudice to the defendant, procedural noncompliance with rules of execution and return does not compel invalidation of a warrant or suppression of its fruits.

RULE 2.4
COMPLAINT--CITATION AND NOTICE--
SUFFICIENCIES

(a) Complaint. The complaint shall not be deemed insufficient for lack of formal caption or commencement or a formal conclusion, or any other matter not necessary to a plain, concise and definite statement of the essential facts constituting the specific offense or offenses with which the defendant is charged, nor for lack of any other matter not necessary to such statement, nor need it negative any exception, excuse or proviso contained in any statute creating or defining the offense charged.

(b) (Reserved.)

(c) Copy of Complaint or Citation and Notice. When a complaint or a citation and notice has been lost or destroyed, a copy or substitute thereof, certified by the court, may replace the original, and the case shall proceed without delay from that cause.

(d) Surplusage. The court on motion of a party may strike surplusage from the complaint or the citation and notice.

(e) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within 10 days after arraignment or an appearance by a defendants lawyer pursuant to rule 4.1(d), or at such later time as the

court may permit.
(f) Amendment. The court may permit a complaint, a citation and notice, or a bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

CrRLJ 2.5
PROCEDURE ON FAILURE TO OBEY CITATION AND NOTICE

The court may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear before the court, either in person or by a lawyer, in answer to a citation and notice, or an order of the court, upon which the defendant has promised in writing to appear, or of which the defendant has been served with otherwise received notice to appear, if the sentence for the offense charged may include confinement in jail.

[Amended effective September 1, 1991; November 21, 2006.]

RULE 3.1
RIGHT TO AND ASSIGNMENT OF LAWYER

(a) Types of Proceedings. The right to a lawyer shall extend to all criminal proceedings for offenses punishable by loss of liberty regardless of their denomination as felonies, misdemeanors, or otherwise.
(b) Stage of Proceedings.
(1) The right to a lawyer shall accrue as soon as feasible after the defendant has been arrested, appears before a committing magistrate, or is formally charged, whichever occurs earliest.
(2) A lawyer shall be provided at every critical stage of the proceedings.
(c) Explaining the Availability of a Lawyer.
(1) When a person has been arrested he or she shall as soon as practicable be advised of the right to a lawyer. Such advice shall be made in words easily understood, and it shall be stated expressly that a person who is unable to pay a lawyer is entitled to have one provided without charge.
(2) At the earliest opportunity a person in custody who desires a lawyer shall be provided access to a telephone, the telephone number of the public defender or official responsible for assigning a lawyer, and any other means necessary to place him or her in communication with a lawyer.
(d) Assignment of Lawyer.
(1) Unless waived, a lawyer shall be provided to any person who is financially unable to obtain one without causing substantial hardship to the person or to the persons family. A lawyer shall not be denied to any person merely because his or her friends or relatives have resources adequate to retain a lawyer or because he or she has posted or is capable of posting bond.
(2) The ability to pay part of the cost of a lawyer shall not preclude assignment. The assignment of a lawyer may be conditioned upon part payment pursuant to an established method of collection.
(3) Information given by a person to assist in the determination of whether he or she is financially able to obtain a lawyer shall be under oath and shall not be available for use to the prosecution in the pending case in chief.
(e) Withdrawal of Lawyer. Whenever a case has been set for trial, no lawyer shall be allowed to withdraw except upon consent of the court for good cause shown and upon substitution of another lawyer or upon the defendants knowing and voluntary decision to proceed without a lawyer.
(f) Services Other Than Lawyer.
(1) A lawyer for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in the case may request them by a motion to the court.
(2)Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the court, or a person or agency to whom the administration of the program may have been delegated by local court rule, shall authorize the services. The motion may be made ex parte, and, upon a showing of good cause, the moving papers may be ordered sealed by the court, and shall remain sealed until further order of the court. The court, in the interest of justice and on a finding that timely procurement of necessary services could not await prior authorization, shall ratify such services after they have been obtained.
(3) Reasonable compensation for the services shall be determined and payment directed to the organization or person who rendered them upon the filing of a claim for compensation supported by affidavit specifying the time expended and the services and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same

services from any other source.

3.2 RELEASE OF ACCUSED (IN WORD FORMAT)

The contents of this item are only available on-line.

CrRLJ 3.2.1
PROCEDURE FOLLOWING
WARRANTLESS ARREST--PRELIMINARY HEARING

(a) Probable Cause Determination. A person who is arrested shall have judicial determination of probable cause no later than 48 hours following the persons arrest, unless probable cause has been determined prior to such arrest.

(b) How Determined. The court shall determine probable cause on evidence presented by a peace officer or prosecuting authority in the same manner as provided for a warrant of arrest in rule 2.2(a). The evidence shall be preserved and may consist of an electronically recorded telephonic statement. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for trial, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony, and further may examine under oath the affiant and any witnesses the affiant may produce. Sworn testimony shall be electronically or stenographically recorded. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations, and may be hearsay in whole or in part.

(c) Court Days. For the purpose of section (a), Saturday, Sunday and holidays may be considered judicial days.

(d) Preliminary Appearance.

(1) Adult. Unless an accused has appeared or will appear before the superior court for a preliminary appearance, any accused detained in jail must be brought before a court of limited jurisdiction as soon as practicable after the detention is commenced, but in any event before the close of business on the next court day.

(2) Juveniles. Unless an accused has appeared or will appear before the superior court for a preliminary appearance, any accused in whose case the juvenile court has entered a written order declining jurisdiction and who is detained in custody, must be brought before a court of limited jurisdiction as soon as practicable after the juvenile court order is entered, but in any event before the close of business on the next court day.

(3) Unavailability. If an accused is unavailable for preliminary appearance because of physical or mental disability, the court may, for good cause shown and recorded by the court, enlarge the time prior to preliminary appearance.

(e) Procedure at Preliminary Appearance.

(1) At the preliminary appearance, the court shall provide for a lawyer pursuant to rule 3.1 and for pretrial release pursuant to rule 3.2, and the court shall orally inform the accused:

(i) of the nature of the charge against the accused;

(ii) of the right to be assisted by a lawyer at every stage of the proceedings; and

(iii) of the right to remain silent, and that anything the accused says may be used against him or her.

(2) If the court finds that release should be denied or that conditions should attach to release on personal recognizance, other than the promise to appear in court at subsequent hearings, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider affidavits filed or sworn testimony and further may examine under oath the affiant

and any witnesses he or she may produce. Subject to constitutional limitations, the finding of probable cause may be based on evidence which is hearsay in whole or in part.

(f) Time Limits.

(1) Unless a written complaint is filed or the accused consents in writing or on the record in open court, an accused, following a preliminary appearance, shall not be detained in jail or subjected to conditions of release for more than 72 hours after the accused's detention in jail or release on conditions, whichever occurs first. Computation of the 72-hour period shall not include any part of Saturdays, Sundays, or holidays.

(2) If no complaint, information or indictment has been filed at the time of the preliminary appearance, and the accused has not otherwise consented, the court shall either:

(i) order in writing that the accused be released from jail or exonerated from the conditions of release at a time certain which is within the period described in subsection (f)(1); or

(ii) set a time at which the accused shall reappear before the court. The time set for reappearance must also be within the period described in subsection (f)(1). If no complaint, information or indictment has been filed by the time set for release or reappearance, the accused shall be immediately released from jail or deemed exonerated from all conditions of release.

(g) Preliminary Hearing on Felony Complaint.

(1) When a felony complaint is filed, the court may conduct a preliminary hearing to determine whether there is probable cause to believe that the accused has committed a felony unless an information or indictment is filed in superior court prior to the time set for the preliminary hearing. If the court finds probable cause, the court shall bind the defendant over to the superior court. If the court binds the accused over, or if the parties waive the preliminary hearing, an information shall be filed without unnecessary delay. Jurisdiction vests in the superior court at the time the information is filed.

(2) If at the time a felony complaint is filed with the district court the accused is detained in jail or subjected to conditions of release, the time from the filing of the complaint in district court to the filing of an information in superior court shall not exceed 30 days plus any time which is the subject of a stipulation under subsection (g)(3). If at the time the complaint is filed with the district court the accused is not detained in jail or subjected to conditions of release, the time from the accused's first appearance in district court which next follows the filing of the complaint to the time of the filing of an information in superior court shall not exceed 30 days, excluding any time which is the subject of a stipulation under subsection (g)(3). If the applicable time period specified above elapses and no information has been filed in superior court, the case shall be dismissed without prejudice.

(3) Before or after the preliminary hearing or a waiver thereof, the court may delay a preliminary hearing or defer a bind-over date if the parties stipulate in writing that the case shall remain in the court of limited jurisdiction for a specified time, which may be in addition to the 30-day time limit established in subsection (g)(2).

(4) A preliminary hearing shall be conducted as follows:

(i) the defendant may as a matter of right be present at such hearing;

(ii) the court shall inform the defendant of the charge unless the defendant waives such reading;

(iii) witnesses shall be examined under oath and may be cross-examined;

(iv) the defendant may testify and call witnesses in the defendant's behalf.

(5) If a preliminary hearing on the felony complaint is held and the court finds that probable cause does not exist, the charge shall be dismissed, and may be refiled only if a motion to set aside the finding is granted by the superior court. The superior court shall determine whether, at the time of the hearing on such motion, there is probable cause to believe that the defendant has committed a felony.

(6) If a preliminary hearing is held, the court shall file the record in superior court promptly after notice that the information has been filed. The record shall include, but not be

limited to, all written pleadings, docket entries, the bond, and any exhibits filed in the court of limited jurisdiction. Upon written reque st of any party, the court shall file the recording of any testimony.

[Amended effective September 1, 2002.]

RULE CrRLJ 3.3
TIME FOR TRIAL

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ensure a trial in accordance with this rule to each person charged with a crime.

(2) Precedence Over Civil Cases. Criminal trials shall take precedence over civil trials.

(3) Definitions. For purposes of this rule:

(i) "Pending charge" means the charge for which the allowable time for trial is being computed.

(ii) "Related charge" means a charge based on the same conduct as the pending charge that is ultimately filed in the trial court.

(iii) "Appearance" means the defendant's physical presence in the trial court. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously placed on the record under the cause number of the pending charge.

(iv) "Arraignment" means the date determined under CrRLJ 4.1(b).

(v) "Detained in jail" means held in the custody of a correctional facility pursuant to the pending charge. Such detention excludes any period in which a defendant is on electric home monitoring, is being held in custody on an unrelated charge or hold, or is serving a sentence of confinement.

(vi) "Trial court" means the court where the pending charge was filed.

(4) Construction. The allowable time for trial shall be computed in accordance with this rule. If a trial is timely under the language of this rule but was delayed by circumstances not addressed in this rule or CrRLJ 4.1, the pending charge shall not be dismissed unless the defendant's constitutional right to a speedy trial was violated.

(5) Related Charges. The computation of the allowable time for trial of a pending charge shall apply equally to related charges.

(6) Reporting of Untimely Trials. The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to trial within the time allowed by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time for Trial.

(1) Defendant Detained in Jail. A defendant who is detained in jail shall be brought to trial within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(2) Defendant Not Detained in Jail. A defendant who is not detained in jail shall be brought to trial within the longer of

(i) 90 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) Release of Defendant. If a defendant is released from jail before the 60-day time limit has expired, the limit shall be extended to 90 days.

(4) Return to Custody following Release. If a defendant not detained in jail at the time the trial date was set is subsequently returned to custody on the same or related charge, the 90-day limit shall continue to apply. If the defendant is detained in jail when trial is reset following a new commencement date, the 60-day limit shall apply.

(5) Allowable Time after Excluded Period. If any period of time is excluded pursuant to section (e), the allowable time for trial shall not expire earlier than 30 days after the end of that excluded period.

(c) Commencement date.

(1) Initial Commencement Date. The initial commencement date shall be the date of arraignment as determined under CrRLJ 4.1.

(2) Resetting of commencement date. On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.

(i) Waiver. The filing of a written waiver of the defendant’s rights under this rule signed by the defendant. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the trial contemporaneously or subsequently set by the court.

(ii) Failure to Appear. The failure of the defendant to appear for any proceeding at which the defendant’s presence was required. The new commencement date shall be the date of the defendant’s next appearance.

(iii) New Trial. The entry of an order granting a mistrial or a new trial or allowing the defendant to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.

(iv) Appellate Review or Stay. The acceptance of review or grant of a stay by an appellate court, or the issuance of a writ of certiorari, mandamus, or prohibition. The new commencement date shall be the date of the defendant’s appearance that next follows the receipt by the clerk of the trial court of the mandate or written order terminating review or stay.

(v) Collateral Proceeding. The entry of an order granting a new trial pursuant to a personal restraint proceeding, a habeas corpus proceeding, or a motion to vacate judgment. The new commencement date shall be the date of the defendant’s appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the trial court of notice of action terminating the collateral proceeding, whichever comes later.

(vi) Change of venue. The entry of an order granting a change of venue. The new commencement date shall be the date of the order.

(vii) Disqualification of Counsel. The disqualification of the defense attorney or prosecuting attorney. The new commencement date shall be the date of the disqualification.

(viii) Deferred Prosecution. The filing of a motion for deferred prosecution. The new commencement date shall be the date that an order is entered denying the motion or revoking the deferred prosecution.

(d) Trial Settings and Notice---Objections---Loss of Right to Object.

(1) Initial Setting of Trial Date. The court shall, within 15 days of the defendant's actual arraignment in the trial court or at the pretrial hearing, set a date for trial which is within the time limits prescribed by this rule and notify counsel for each party of the date set. If a defendant is not represented by counsel, the notice shall be given to the defendant and may be mailed to the defendant's last known address. The notice shall set forth the proper date of the defendant's arraignment and the date set for trial.

(2) Resetting of Trial Date. When the court determines that the trial date should be reset for any reason, including but not

limited to the applicability of a new commencement date pursuant to subsection (c)(2) or a period of exclusion pursuant to section (e), the court shall set a new date for trial which is within the time limits prescribed and notify each party of the date set.

(3) Objection to Trial Setting. A party who objects to the date set on the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial date within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. A party who fails, for any reason, to make such a motion shall lose the right to object that a trial commenced on such a date, is not within the time limits prescribed by this rule.

(4) Loss of Right to Object. If a trial date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for trial, subject to section (g). A later trial date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

(e) Excluded Periods. The following periods shall be excluded in computing the time for trial:

(1) Competency Proceedings. All proceedings relating to the competency of a defendant to stand trial on the pending charge, beginning on the date when the competency examination is ordered and terminating when the court enters a written order finding the defendant to be competent.

(2) Proceedings on Unrelated Charges. Arraignment, pre-trial proceedings, trial and sentencing on an unrelated charge.

(3) Continuances. Delay granted by the court pursuant to section (f).

(4) Period between Dismissal and Filing. The time between the dismissal of a charge and the refiling of the same or related charge.

(5) Disposition of Related Charge. The period between the commencement of trial or the entry of a plea of guilty on one charge and the defendant's arraignment in the trial court on a related charge.

(6) Defendant Subject to Foreign or Federal Custody or Conditions. The time during which a defendant is detained in jail or prison outside the county in which the defendant is charged or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington.

(7) Juvenile Proceedings. All proceedings in juvenile court.

(8) Unavoidable or unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for trial beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(9) Disqualification of Judge. A five-day period of time commencing with the disqualification of the judge to whom the case is assigned for trial.

(f) Continuances. Continuances or other delays may be granted as follows:

(1) Written Agreement. Upon written agreement of the parties which must be signed by the defendant or all defendants, the court may continue the trial to a specified date.

(2) Motion by the Court or a Party. On motion of the court or a party, the court may continue the trial date to a specified date when such continuance is required in the administration of justice and the defendant will not be prejudiced in the presentation of his or her defense. The motion must be filed before time for trial has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for trial has expired. Such a continuance may be granted only once in the case upon a finding on the record or in writing that the defendant will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 14 days

for a defendant detained in jail, or 28 days for a defendant not detained in jail, from the date that the continuance is granted. The court may direct the parties to remain in attendance or be on-call for trial assignment during the cure period.

(h) Dismissal With Prejudice. A charge not brought to trial within the time limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-trial reasons except as expressly required by this rule, a statute, or federal constitution.

[Amended effective November 29, 1991; July 1, 1992; September 1, 1995; September 1, 2003; November 25, 2003.]

CrRLJ
RULE 3.4

PRESENCE OF THE DEFENDANT

(a) When Necessary. The defendant shall be present at the arraignment, at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(c) Defendant Not Present. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) Video Conference Proceedings.

(1) Authorization. Preliminary appearances held pursuant to CrRLJ 3.2.1(d), arraignments held pursuant to this rule and CrRLJ 4.1, bail hearings held pursuant to CrRLJ 3.2, and trial settings held pursuant to CrRLJ 3.3(f), may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrRLJ 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

Supersedes RCW 10.01.080; RCW 10.46.120, .130; RCW 10.64.020, .030.

Amended 12/02/99

RULE CrRLJ 3.5
CONFESSION PROCEDURE

(a) Requirement for Hearing. When an accused's statement which is subject to constitutional protection is to be offered in evidence the court shall hold, upon demand, a hearing for the purpose of determining whether the statement is admissible.

(b) Defendant's Rights at Hearing. At the hearing, the court shall ascertain whether the defendant has been informed that:

(1) He or she may, but need not, testify at the hearing on the circumstances surrounding the statement;

(2) If the defendant does testify at the hearing, he or she will be subject to cross examination with respect to the circumstances surrounding the statement and with respect to his or her credibility;

(3) If the defendant does testify at the hearing, he or she does not by so testifying waive the right to remain silent during the trial; and

(4) If the defendant does testify at the hearing, neither this fact nor his or her testimony at the hearing shall be mentioned to the jury unless he or she testifies concerning the statement at trial.

(c) Duty of Court To Make a Record. After the hearing, the court shall state its findings of fact and conclusions of law as to the admissibility or inadmissibility of the statement.

(d) Rights of Defendant When Statement Is Ruled Admissible. If the court finds that the statement is admissible, and it is offered in evidence:

(1) The defense may offer evidence or cross-examine the witnesses with respect to the statement without waiving an objection to the admissibility of the statement;

(2) Unless the defendant testifies at the trial concerning the statement, no reference shall be made to the fact, if it be so, that the defendant testified at the preliminary hearing on the admissibility of the statement;

(3) If the defendant becomes a witness on this issue, he or she shall be subject to cross examination to the same extent as would any other witness; and

(4) If the defense raises the issue of voluntariness under subsection (d)(1), the jury shall be instructed that it may give such weight and credibility to the statement, in view of the surrounding circumstances, as it sees fit.

[Adopted effective September 1, 1987.]

RULE 3.6
SUPPRESSION PROCEDURE

(a) Pleadings; Determination Regarding Hearing. Motions to suppress physical, oral or identification evidence other than motions pursuant to rule 3.5 shall be in writing supported by an affidavit or document as provided in RCW 9A.72.085 or any law amendatory thereto, setting forth the facts the moving party anticipates will be elicited at a hearing. If there are no disputed facts, the court shall determine whether an evidentiary hearing is required. If the court determines that no evidentiary hearing is required, the court shall set forth its reasons for not conducting an evidentiary hearing.

(b) Decision. The court shall state findings of fact and conclusions of law.

Adopted 108 Wn.2d 1149 effective September 1, 1987
Amended 130 Wn.2d 1102 effective January 2, 1997

RULE CrRLJ 4.1
ARRAIGNMENT

(a) Procedures. After the complaint or the citation and notice has been filed, the defendant shall be arraigned thereon in open court.

(1) Time.

(i) The defendant shall be arraigned not later than 15 days after the date the complaint is filed in court, if the defendant is (A) detained in a county or city jail in the county where the charges are pending, or (B) subject to conditions of

release imposed in connection with the same charges.

(ii) The defendant shall be arraigned not later than 15 days after that appearance which next follows the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for the delay. For purposes of this rule, "appearance" has the meaning defined in CrRLJ 3.3(a)(3)(iii).

(2) Reading and Plea. Arraignment shall consist of reading the complaint or the citation and notice to the defendant or stating to him or her the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the complaint or the citation and notice before being called upon to plead, unless a copy has previously been supplied. The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested.

(3) Advisement. At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:

(i) of the right to trial by jury if applicable; and

(ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one.

(b) Objection to Arraignment Date---Loss of Right to Object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of CrRLJ 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which the defendant was actually arraigned.

(c) Waiver.

(1) Jury Trial. A waiver of jury trial at arraignment must be in writing and signed by the defendant. If the defendant waives a jury trial at arraignment, he or she must be advised of the right to withdraw the waiver and request a jury trial within 10 days of arraignment.

(2) Lawyer. If the defendant chooses to proceed without a lawyer, the court shall determine on the record that the waiver is made voluntarily, competently and with knowledge of the consequences. The defendant must be advised that waiver of a lawyer at arraignment does not preclude the defendant from asserting the right to a lawyer later in the proceedings.

(d) Name. At arraignment, the court shall ask the defendant his or her true name. If the defendant's name has been incorrectly stated in the complaint or citation and notice, the court shall order the complaint or citation and notice to be corrected accordingly.

(e) Appearance by Defendant's Lawyer. Except as otherwise provided by statute or by local court rule, a lawyer may enter an appearance or a plea of not guilty on behalf of a client for any offense. Such appearance or plea may be entered only after a complaint or citation and notice has been filed.

(1) The appearance or the plea of not guilty shall be made only in writing or in open court, and eliminates the need for a further arraignment.

(2) An appearance that waives arraignment but fails to state a plea shall be deemed to constitute entry of a plea of not guilty.

(3) An appearance under this rule constitutes a waiver of any defect in the complaint or the citation and notice except for failure to charge a crime which may be raised at any time and except for any other defect that is specifically stated in writing or on the record at the time the appearance is entered.

(4) A written appearance shall commence the running of the time periods established in rule 3.3 from the date of its receipt by the court, unless the time periods have previously been commenced by an appearance in open court.

(5) Telephonic requests or notices by either the defendant or the defendant's lawyer shall not constitute an arraignment or an appearance or entry of a plea, and shall not commence the running of the time periods under rule 3.3.

(6) The appearance by a lawyer authorized by this rule shall be construed as an "arraignment" under the other provisions of these rules.

[Amended effective September 1, 1995; September 1, 2003.]

CrRLJ 4.2
PLEAS AND PRETRIAL DISPOSITION

(a) Types. A defendant may plead not guilty, not guilty by reason of insanity, or guilty.

(b) Multiple Offenses. When the complaint or the citation and notice charges two or more offenses in separate counts the defendant shall plead separately to each.

(c) Pleading Insanity; Claiming Incompetency. Written notice of an intent to rely on the insanity defense must be filed at or within 10 days of the time of arraignment, or at such later time as the court may for good cause permit. A claim of present incompetency to stand trial shall be raised at arraignment or as soon as possible thereafter. All procedures concerning the defense of insanity or the competence of the defendant to stand trial are governed by RCW 10.77 or any applicable ordinance.

(d) Voluntariness. The court shall not accept a plea of guilty without first determining that it is made voluntarily, competently, and with an understanding of the nature of the charge and the consequences of the plea. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea.

(e) Agreements. If a plea of guilty is based upon an agreement between the defendant and the prosecuting authority, such agreement must be made a part of the record at the time the plea is entered. No agreement shall be made which specifies what action the court shall take on or pursuant to the plea, or which attempts to control the exercise of the courts discretion, and the court shall so advise the defendant.

(f) Withdrawal of Plea. The court shall allow a defendant to withdraw his or her plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:
(h) Verification by Interpreter. If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provided for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

(i) Deferred Prosecution. A written petition shall be filed at the time a defendant moves the court to grant a deferred prosecution under RCW Chapter 10.05. The petition shall be in substantially the following form:

[Amended effective September 1, 1991; January 2, 1996; September 1, 1996; September 1, 1999; December 28, 1999; December 26, 2000; April 16, 2002; August 6, 2002; April 24, 2007.]

4.2 STATEMENT OF DEFENDANT ON PLEA OF GUILTY (IN WORD FORMAT)

The contents of this item are only available on-line.

4.2A "DUI" ATTACHMENT: DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (IN WORD FORMAT)

The contents of this item are only available on-line.

4.2B "OFFENDER REGISTRATION" ATTACHMENT: SEXUAL MISCONDUCT WITH A MINOR IN THE SECOND DEGREE (IN WORD FORMAT)

The contents of this item are only available on-line.

4.2C INTERPRETER DECLARATION

The contents of this item are only available on-line.

4.2 PETITION FOR DEFERRED PROSECUTION (DPPF) (IN WORD FORMAT)

The contents of this item are only available on-line.

4.2 PETITION FOR DEFERRED PROSECUTION OF CRIMINAL MISTREATMENT CHARGE (IN WORD FORMAT)

The contents of this item are only available on-line.

RULE 4.3
JOINDER OF OFFENSES AND DEFENDANTS

(a) Joinder of Offenses. Two or more offenses may be joined in one charging document, with each offense stated in a separate count, when the offenses:

(1) Are of the same or similar character, even if not part of a single scheme or plan; or

(2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan. The number of offenses in one charging document may be governed by local court rule.

(b) Joinder of Defendants. Unless otherwise provided by local court rule, two or more defendants may be joined in the same charging document:

(1) When each of the defendants is charged with accountability for each offense included;

(2) When each of the defendants is charged with conspiracy and one or more of the defendants is also charged with one or more offenses alleged to be in furtherance of the conspiracy; or

(3) When, even if conspiracy is not charged and all of the defendants are not charged in each count, it is alleged that the several offenses charged:

(i) were part of a common scheme or plan; or

(ii) were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others. Such defendants may be charged in one or more counts together or separately and it shall not be necessary to charge all defendants in each count.

(c) Improper Joinder. Improper joinder of offenses or defendants shall not preclude subsequent prosecution on the same charge for the charge or defendant improperly joined.

RULE 4.3.1
CONSOLIDATION FOR TRIAL

(a) Consolidation Generally. Offenses or defendants properly joined under rule 4.3 shall be consolidated for trial unless the court orders severance pursuant to rule 4.4.

(b) Failure To Join Related Offenses.

(1) Two or more offenses are related offenses, for purposes of this rule, if they are within the jurisdiction and venue of the same court and are based on the same conduct.

(2) When a defendant has been charged with two or more related offenses, his or her timely motion to consolidate them for trial should be granted unless the court determines that because the prosecuting authority does not have sufficient evidence to warrant trying some of the offenses at that time, or for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to so move constitutes a waiver of any right of consolidation as to related offenses with which the defendant knew he or she was charged.

(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for a related offense, unless a motion for consolidation of these offenses was previously denied or the right of consolidation was waived as provided in this rule. The motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting authority was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.

(4) Entry of a plea of guilty to one offense does not bar the subsequent prosecution of a related offense unless the plea of guilty was entered on the basis of a plea agreement in which the prosecuting authority agreed to seek or not to oppose dismissal of other related charges or not to prosecute other potential related charges.

(c) Authority of Court To Act. The court may order consolidation for trial of two or more charging documents if the offenses or defendants could have been joined in a single charging document under rule 4.3.

RULE CrRLJ 4.4
SEVERANCE OF OFFENSES AND DEFENDANTS

(a) Timeliness of Motion; Waiver.

(1) A defendant's motion for severance of offenses or defendants must be made before trial, except that a motion for severance may be made before or at the close of all the evidence if the interests of justice require. Severance is waived if the motion is not made at the appropriate time.

(2) If a defendant's pretrial motion for severance was overruled he or she may renew the motion on the same ground before or at the close of all the evidence. Severance is waived by failure to renew the motion.

(b) Severance of Offenses. The court, on application of the prosecuting authority, or on application of the defendant other than under section (a), shall grant a severance of offenses whenever before trial or during trial with consent of the defendant, the court determines that severance will promote a fair determination of the defendant's guilt or innocence of each offense.

(c) Severance of Defendants.

(1) A defendant's motion for severance on the ground that an out-of-court statement of a codefendant referring to him or her is inadmissible against him or her shall be granted unless:

(i) the prosecuting authority elects not to offer the statement in the case in chief; or
(ii) deletion of all references to the moving defendant will eliminate any prejudice to him or her from the admission of the statement.

(2) The court, on application of the prosecuting authority, or on application of the defendant other than under subsection

(i), should grant a severance of defendants whenever:

(i) if before trial, it is deemed necessary to protect a defendant's rights to a speedy trial, or it is deemed appropriate to promote a fair determination of the guilt or innocence of a defendant; or

(ii) if during trial upon consent of the severed defendant, it is deemed necessary to achieve a fair determination of the guilt or innocence of a defendant.

(3) When such information would assist the court in ruling on a motion for severance of defendants, the court may order the prosecuting authority to disclose any statements made by the defendants which he or she intends to introduce in evidence at the trial.

(d) Failure To Prove Grounds for Joinder of Defendants. If pursuant to section (a), a defendant moves to be severed at the conclusion of the prosecuting authority's case or of all the evidence, and there is not sufficient evidence to support the grounds upon which the moving defendant was joined or previously denied severance, the court shall grant severance if, in view of this lack of evidence, failure to sever prejudices the moving defendant.

(e) Authority of Court To Act on Own Motion. The court may order a severance of offenses or defendants before trial if a severance could be obtained on motion of a defendant or the prosecuting authority.

[Adopted effective September 1, 1987; amended effective September 1, 2007.]

RULE 4.5

PRETRIAL HEARING

When a plea of not guilty is entered, the court may set a time for a pretrial hearing. The time set for the pretrial hearing should allow sufficient time for the lawyers to initiate and complete discovery, conduct further investigation of the case as needed, and continue plea discussions.

RULE 4.6
DEPOSITIONS

(a) When Taken. Upon a showing that a prospective witness may be unable to attend or prevented from attending a trial or hearing or if a witness refuses to discuss the case with either lawyer and that his or her testimony is material and that it is necessary to take his or her deposition in order to prevent a failure of justice, the court at any time after the filing of a complaint or citation and notice may upon motion of a party and notice to the parties order that his or her testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.
(b) Notice of Taking. The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the

time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time and may change the place of taking.

(c) How Taken. A deposition shall be taken in the manner provided in civil actions. No deposition shall be used in evidence against any defendant who has not had notice of and an opportunity to participate in or be present at the taking thereof.

(d) Use. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as witness, or as substantive evidence under circumstances permitted by the Rules of Evidence.

(e) Objections to Admissibility. Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions.

RULE CrRLJ 4.7
DISCOVERY

(a) Prosecuting Authority's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting authority shall, upon written demand, disclose to the defendant the following material and information within his or her possession or control concerning:

(i) the names and addresses of persons whom the prosecuting authority intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses;

(ii) any written or recorded statements and the substance of any oral statements made by the defendant, or made by a codefendant if the trial is to be a joint one;

(iii) any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and scientific tests, experiments, or comparisons;

(iv) any books, papers, documents, photographs, or tangible objects which the prosecuting authority intends to use in the hearing or trial or which were obtained from or belonged to the defendant;

(v) any record of prior criminal convictions known to the prosecuting authority of the defendant and of persons whom the prosecuting authority intends to call as witnesses at the hearing or trial;

(vi) any electronic surveillance, including wiretapping, of the defendant's premises or conversations to which the defendant was a party and any record thereof;

(vii) any expert witnesses whom the prosecuting authority will call at the hearing or trial, the subject of their testimony, and any reports relating to the subject of their testimony that they have submitted to the prosecuting authority;

(viii) any information indicating entrapment of the defendant;

(ix) specified searches and seizures;

(x) the acquisition of specified statements from the defendant; and

(xi) the relationship, if any, of specified persons to the prosecuting authority.

(2) Unless the court orders otherwise, discoverable materials shall be made available for inspection and copying within 21 days of arraignment or within 21 days of receipt of the demand by the prosecuting authority, whichever is later.

(3) Except as otherwise provided by protective orders, the prosecuting authority shall disclose to defendant's lawyer any material or information within his or her knowledge which tends to negate defendant's guilt as to the offense charged.

(4) The prosecuting authority's obligation under this section is limited to material and information within the actual knowledge, possession, or control of members of his or her staff.

(b) Defendant's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the defendant shall, upon

written demand, disclose to the prosecuting authority the following material and information within his or her possession or control concerning:

(i) the names and addresses of persons whom the defendant intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses;

(ii) any books, papers, documents, photographs, or tangible objects which the defendant intends to use in the hearing or trial;

(iii) any expert witnesses whom the defendant will call at the hearing or trial, the subject of their testimony, and any reports relating to the subject of their testimony that they have submitted to the defendant;

(iv) any claim of incompetency to stand trial;

(v) whether his or her prior convictions will be stipulated or need to be proved;

(vi) whether or not he or she will rely on a defense of insanity at the time of the offense; and

(vii) the general nature of his or her defense.

(2) Unless the court orders otherwise, discoverable materials shall be made available for inspection and copying not later than 14 days prior to the date set for trial.

(3)References in this section to defendant shall be deemed to include the defendant's lawyer, where appropriate.

(c) Physical and Demonstrative Evidence.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, the court on motion of the prosecuting authority or the defendant may require or allow the defendant to:

(i) appear in a lineup;

(ii) speak for identification by a witness to an offense;

(iii) be fingerprinted;

(iv) pose for photographs not involving reenactment of the crime charged;

(v) try on articles of clothing;

(vi) permit the taking of samples of or from his or her blood, hair, and other materials of his or her body including materials under his or her fingernails which involve no unreasonable intrusion thereof;

(vii) provide specimens of his or her handwriting; and

(viii) submit to a reasonable physical, medical, or psychiatric inspection or examination.

(2) Provisions may be made for appearance for the purposes stated in this section in an order for pretrial release.

(d) Material Held by Others. Upon defendant's request and designation of material or information in the knowledge, possession or control of other persons which would be discoverable if in the knowledge, possession or control of the prosecuting authority, the prosecuting authority shall attempt to cause such material or information to be made available to the defendant. If the prosecuting authority's efforts are unsuccessful and if such material or persons are subject to the jurisdiction of the court, the court shall issue suitable subpoenas or orders to cause such material to be made available to the defendant.

(e) Discretionary Disclosures.

(1) Upon a showing of materiality and if the request is reasonable, the court in its discretion may require disclosure of the relevant material and information not covered by sections (a) and (d).

(2) The court may condition or deny disclosure authorized by this rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment resulting from such disclosure, which outweigh any usefulness of the disclosure to the defendant.

(f) Matters Not Subject to Disclosure.

(1) Work Product. Disclosure shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of investigating or prosecuting agencies except as to material discoverable under subsection (a)(1)(iii).

(2) Informants. Disclosure of an informants identity shall not be required when his or her identity is a prosecution secret and a failure to disclose will not infringe upon the constitutional rights of the defendant. Disclosure of the identity of witnesses to be produced at a hearing or trial shall not be denied.

(g) Regulation of Discovery.

(1) Investigations Not To Be Impeded. Except as otherwise provided by protective orders or as to matters not subject to disclosure, neither the lawyers for the parties nor other prosecution or defense personnel shall advise persons, other than the defendant, who have relevant material or information to refrain from discussing the case with the opposing lawyer or showing the opposing lawyer any relevant material, nor shall they otherwise impede the opposing lawyers investigation of the case.

(2) Continuing Duty To Disclose. If, after compliance with this rule or orders pursuant to it, a party discovers additional material or information which is subject to disclosure, he or she shall promptly notify the other party or his or her lawyer of the existence of such additional material. If the additional material or information is discovered during trial, the court shall also be notified.

(3) Custody of Materials. Any materials furnished to a lawyer pursuant to these rules shall remain in the exclusive custody of the lawyer and be used only fo r the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. Further, a defense lawyer shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court.

(4) Protective Orders. Upon a showing of cause, the court may at any time order that specified disclosure be restricted or deferred or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit his or her lawyer to make beneficial use of it.

(5) Excision. When some parts of certain material are discoverable under this rule and other parts are not discoverable, as much of the material shall be disclosed as is consistent with this rule. Material excised pursuant to judicial order shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(6) In Camera Proceedings. Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosure, or portion of such showing, to be made in camera. A record shall be made of such proceedings. If the court enters an order granting relief following a showing in camera, the entire record of such showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(7) Sanctions.

(i) If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the court may order such party to permit the discovery of material and information not previously disclosed, grant a continuance, or enter such other order as it deems just under the circumstances.

(ii) The court may at any time dismiss the action if the court determines that failure to comply with an applicable discovery rule or an order issued pursuant thereto is the result of a willful violation or of gross negligence and that the defendant was prejudiced by such failure.

(iii) A lawyers willful violation of an applicable discovery rule or an order issued pursuant thereto may subject the lawyer to appropriate sanctions by the court.

[Adopted effective September 1, 1987; September 1, 2005.]

RULE 4.8
SUBPOENAS

(a) Issuance for Witnesses. The defendant and the prosecuting authority may subpoena witnesses necessary to testify at a scheduled hearing or trial. The subpoena may only be issued by a judge, court commissioner, clerk of the court, or by a party's lawyer. If a party's lawyer issues a subpoena, a copy shall be filed with the court. If the subpoena is for a witness outside the county or counties contiguous with it, the judge must approve the subpoena.

(b) Subpoena Duces Tecum.

(1) Upon application of either party, the court may issue a subpoena duces tecum, commanding the person to whom it is directed to produce books, papers, documents or other objects designated in it. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may, upon their production, permit the books, papers, documents or objects, or portions of them, to be inspected by the parties and their lawyers.

(2) On motion made promptly the court may quash or modify the subpoena duces tecum if compliance would be illegal, unreasonable or oppressive.

(c) Service. A subpoena may be directed for service within their jurisdiction to the sheriff of any county or to any peace officer of any municipality in which the witness may be, or it may be served as provided in CRLJ 45(c), or it may be served by first-class mail, postage prepaid, sent to the witness' last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail.

(d) Proof of Service.

(1) When personal service is made by someone other than a sheriff or peace officer, proof shall be by affidavit or by certification under RCW 9A.72.085 or any law amendatory thereof.

(2) Proof of service by mail may be by affidavit or certification, under RCW 9A.72.085 or any law amendatory thereof, of the person who mailed the papers, or by written acknowledgment of service.

(e) Sanctions.

(1) If at any time during the proceedings it is brought to the courts attention that a party's lawyer has abused the power to issue subpoenas, the court may impose upon the lawyer such terms as are just.

(2) No subpoena shall be the basis for a material witness warrant or a contempt of court citation unless there is proof of personal receipt.

RULE 4.9
PROCESS--CRIMINAL

The court may issue criminal process to any person anywhere in the state.

RULE 4.10
MATERIAL WITNESS

(a) Warrant. On motion of the prosecuting authority or the defendant, the court may issue a warrant, subject to reasonable bail, for the arrest of a material witness. The warrant shall issue only on a showing, by affidavit or on the record in open court, that the testimony of the witness is material and that

(1) The witness has refused to submit to a deposition ordered by the court pursuant to rule 4.6; or

(2) The witness has refused to obey a lawfully issued subpoena; or

(3) It may become impracticable to secure the presence of the witness by subpoena. Unless otherwise ordered by the court, the warrant shall be executed and returned as in rule 2.2.

(b) Hearing. After the arrest of the witness, the court shall hold a hearing no later than the next court day after the witness is present in the county from which the warrant issued. The witness shall be entitled to be represented by a lawyer. The court shall appoint a lawyer for an indigent witness if it is required to protect the rights of the witness.

(c) Release/Detention. Upon a determination that the testimony of the witness is material and that one of the conditions set forth in section (a)

exists, the court shall set conditions for release of the witness pursuant to rule 3.2. A material witness shall be released unless the court determines that the testimony of such witness cannot be secured adequately by deposition and that further detention is necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to rule 4.6.

RULE 5.1
COMMENCEMENT OF ACTIONS

(a) Where Commenced Under Municipal Ordinance. All actions alleging a violation of a municipal ordinance shall be commenced in the municipal court, in the municipal department of the district court where the municipality is located, or in a district court pursuant to an interlocal government agreement.

(b) Where Commenced Under Other Laws.

(1) All other actions shall be commenced in the district where the alleged offense was committed, or in any district wherein an element of the alleged offense was committed or occurred.

(2) The action may also be brought:

(i) in the district in which the county seat is located, if

(a) the alleged offense is a felony, or (b) if the defendant consents; or

(ii) in an adjacent district in the same county, if the alleged offense relates to driving, or being in actual physical control of a motor vehicle and occurred within an enhanced enforcement district under RCW 2.56.110 or any law amendatory thereof; or

(iii) in a district where a custodial facility is located, if the defendant is incarcerated therein and transporting the defendant is not practical.

(c) Two or More Districts. Where there is reasonable doubt whether an alleged offense has been committed in one of two or more districts, the action may be commenced in any such district.

(d) Right To Change. When a case is filed pursuant to section (c) of this rule, the defendant shall have the right to change venue to any other district in which the offense may have been committed.

(e) Objection. Any objection to venue must be made as soon after the initial pleading is filed as the defendant has knowledge upon which to make it.

RULE 5.2
CHANGE OF VENUE

(a) When Ordered--Improper District. The court shall order a change of venue upon motion and showing that the action has not been prosecuted in the proper district.

(b) When Ordered--On Motion. The court may order a change of venue to another district in the same county, if any, or otherwise to an adjacent district in another county if the defendant consents:

(1) Upon written agreement of the prosecuting authority and the defendant; or

(2) Upon motion of the defendant, supported by affidavit, that the defendant believes he or she cannot receive a fair trial in the district where the action is pending; or

(3) Upon motion of either party that the convenience of witnesses or the ends of justice would be served by such change; or

(4) Upon motion of either party or the court, to a district where a custodial facility is located, if the defendant is incarcerated therein and transporting the defendant is not practical.

(5) Upon the courts own motion, if all of the judges of a district are disqualified from hearing the case. The court may also order a change of venue to the district in which the county seat is located, if the defendant consents.

(c) Procedure on Transfer. When the court orders a change of venue it shall direct that all the papers and proceedings be certified to the court of the proper district. The defendant and subpoenaed witnesses shall have a continuing obligation to appear and attend as required.

RULE 5.3
SEVERAL CHARGING DOCUMENTS FOR SAME

OFFENSE--DIFFERENT COURTS

If two or more charging documents are filed against the same defendant for the same offense in different courts, and if each court has jurisdiction, the court in which the first charging document was filed shall try the case. Upon motion by either party, or the court, the second or several charging documents shall be forwarded for consolidation and trial to the court in which a charging document was first filed.

RULE 6.1.1
TRIAL BY JURY

(a) Trial by Jury. Cases required to be tried by a jury shall be so tried unless the defendant files a written waiver of a jury trial, and has consent of the court.

(b) Demand by Prosecution. The prosecuting authority may demand a jury trial when authorized by law. The demand shall be in writing and filed with the court within 15 days after the defendant is arraigned. Notice of the demand shall be served upon the defendant promptly thereafter.

(c) Number of Jurors. The number of persons serving on a jury shall be six, not including alternates.

(d) Juror Unable To Continue. If a case has not yet been submitted to the jury and a juror is unable to continue and no alternate jurors were selected or none are available, or if a case has been submitted to the jury and a juror is unable to continue, all defendants may elect to continue with the remaining jurors. The court shall declare a mistrial for any defendant who does not elect to continue with the remaining jurors. If some, but not all, defendants elect to continue with the trial, the court shall proceed with the trial for those defendants unless the court determines manifest necessity requires a mistrial.

RULE 6.1.2
TRIAL BY THE COURT

(a) Trial Without Jury. In a case tried without a jury, the court shall state separately findings of fact and conclusions of law.

(b) Stipulation or Submittal. A defendant, with the approval of the prosecuting authority, may submit his or her case upon the police report and other materials by stipulating to the admissibility thereof in lieu of testimony. A written statement of the defendant in substantially the form set forth below may be filed:

STATE OF WASHINGTON

COUNTY OF_____,	)	Case No. _____
THE STATE OF WASHINGTON,	)	
CITY OR TOWN OF_____,	)	
Plaintiff,	)	STATEMENT OF DEFENDANT
v.	)	ON SUBMITTAL OR
_____,	)	STIPULATION OF FACTS
Defendant.	)	

I am the defendant in this case. I wish to submit the case on the record. I understand that this means that the judge will read the police report and other materials and, based upon that evidence, the judge will decide if I am guilty of the crime(s) of _____.

I understand that, by this process, I am giving up the constitutional right to a jury trial, the right to hear and question witnesses, the right to call witnesses in my own behalf, and the right to testify or not to testify.

I understand that the maximum sentence for the crime(s) is _____ and that the judge can impose any sentence up to the maximum, no matter what the prosecution or the defense recommends.

No one has made any threats or promises to get me to submit this case other than the prosecuting authority's promise to take the following action and/or make the following recommendations:

_____
_____.

Dated this _____ day of _____, 19____.

_____
Defendant

_____ _____
For the Prosecuting Authority Lawyer for Defendant

RULE 6.1.3
ORDER OF TRIAL

The order of trial shall be as follows, where applicable:
(a) The jury shall be sworn well and truly to try the case.
(b) Unless both parties waive opening statements, the prosecuting authority shall make the opening statement outlining the evidence which will be offered by the prosecution, and the defense may immediately thereafter make an opening statement or such opening statement may be reserved until after the conclusion of the prosecutions case in chief.
(c) The prosecution shall submit its evidence.
(d) The defense may challenge the sufficiency of the evidence at the close of the prosecutions case in chief, and, if sustained, the case shall be dismissed; otherwise, the defense may then offer its evidence.
(e) The parties may thereafter offer evidence in rebuttal and surrebuttal. The court, for good cause shown or in the interest of justice, may permit the parties to offer evidence upon their original cases.
(f) The instructions shall be given prior to closing argument.
(g) The prosecution may argue its case after which the defense may argue followed by the prosecutions rebuttal. The length of time of all arguments shall be fixed by the court in its discretion and announced before the arguments are commenced. Equal time shall be allowed each party.
(h) After argument, the jury shall retire to consider its verdict, or the court shall state its findings of fact and conclusions of law.

RULE 6.2
JURORS' ORIENTATION

All jurors shall be given a general orientation when they report for jury. A copy of the Jurors Handbook to Washington Courts prepared by the Superior Court Judges' Association of the State of Washington and the District and Municipal Court Judges' Association should be provided to all jurors.

RULE 6.3
SELECTING THE JURY

When the case is called for trial, the jurors shall be selected at random from the jurors summoned who have appeared and have not been excused.

RULE 6.4
CHALLENGES

(a) Challenges to the Entire Panel. Challenges to the entire panel shall only be sustained for a material departure from the procedures prescribed by law for their selection.
(b) Voir Dire. A voir dire examination shall be conducted under oath for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of peremptory challenges. The judge shall initiate the voir dire examination by identifying the parties and their respective lawyers and by briefly outlining the nature of the case. The judge and the lawyers may then ask the prospective jurors questions touching their qualifications to serve as jurors in the case, subject to the supervision of the court as appropriate to the facts of the case.
(c) Challenges for Cause.
(1) If the judge after examination of any juror is of the opinion that grounds for challenge are present, he or she shall excuse that juror from the trial of the case. If the judge does not excuse the juror, any party may challenge the juror for cause.
(2) RCW 4.44.150 through 4.44.190 shall govern challenges for cause.
(d) Exceptions to Challenge.
(1) Determination. The challenge may be excepted to by the adverse party for insufficiency and, if so, the court shall determine the sufficiency thereof, assuming the facts alleged therein to be true. The

challenge may be denied by the adverse party and, if so, the court shall try the issue and determine the laws and the facts.

(2) Trial of Challenges. Upon trial of a challenge, the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of fact shall govern. The juror challenged, or any other person otherwise competent, may be examined as a witness by either party. If a challenge be determined to be sufficient, or if found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded; but if not so determined or found otherwise, it shall be disallowed.

(e) Peremptory Challenges.

(1) Peremptory Challenges Defined. A peremptory challenge is an objection to a juror for which there is no reason given, but upon which the court shall exclude the juror. The defense and the prosecuting authority may peremptorily challenge three jurors each. When several defendants are on trial together, each defendant shall be entitled to one challenge in addition to the number of challenges provided above, with discretion in the trial judge to afford the prosecuting authority such additional challenges as circumstances warrant.

(2) Peremptory Challenges--How Taken. After prospective jurors have been passed for cause, peremptory challenges shall be exercised alternately first by the prosecution then by each defendant, until the peremptory challenges are exhausted or the jury accepted. Acceptance of the jury as presently constituted shall not waive any remaining peremptory challenges to jurors subsequently called.

RULE 6.5
ALTERNATE JURORS

When the jury is selected the court may direct the selection of one or more additional jurors, in its discretion, to be known as alternate jurors. Each party shall be entitled to one peremptory challenge for each alternate juror to be selected. When several defendants are on trial together, each defendant shall be entitled to one challenge in addition to the challenge provided above, with discretion in the trial judge to afford the prosecuting authority such additional challenges as circumstances warrant. If at any time before submission of the case to the jury a juror is found unable to perform his or her duties the court shall order the juror discharged, and the clerk shall draw the name of an alternate who shall take the jurors place on the jury.

RULE 6.6
JURORS' OATH

The jury shall be sworn or affirmed well and truly to try the issue between the prosecuting authority and the defendant, according to the evidence and instructions by the court.

RULE 6.7
CUSTODY OF JURY

(a) Generally. During trial and deliberations the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury.

(b) Communication Restricted. Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor make any himself or herself, unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.

(c) Motions. Any motions or proceedings concerning the separation or sequestration of the jury shall be made out of the presence of the jury.

RULE CrRLJ 6.8
NOTE-TAKING BY JURORS

In all cases, jurors shall be allowed to take written notes regarding the evidence presented to them and keep these notes with them during their deliberation. The court may allow jurors to keep these notes with them in the jury room during recesses, in which case jurors may review their own notes but may not share or discuss the notes with other jurors until they begin deliberating. Such notes should be treated as confidential between the jurors making them and their fellow jurors, and shall be destroyed immediately after the verdict is rendered.

[Adopted effective September 1, 1987; amended effective October 1, 2002.]

RULE 6.9
VIEW OF PREMISES BY JURY

The court may allow the jury to view the place in which any material fact occurred. In such event it shall order the jury to be conducted in a body, in the custody of a proper officer of the court to the place which shall be shown to them by the judge. The defendant shall be present at the view. During the view, no person other than the judge or person authorized by the judge shall speak to the jury on any subject relating to the trial.

RULE 6.10
DISCHARGE OF THE JURY

The jury may be discharged by the court on consent of both parties or when it appears that there is no reasonable probability of their reaching agreement.

RULE 6.11
JUDGE--DISABILITY

(a) Disability of Judge During Jury Trial. If, before the judge submits the cause to the jury, he or she is unable to continue with the trial, any other judge assigned to or regularly sitting in the court, upon becoming familiar with the record of the trial, may proceed with the trial. Upon defendant's objection to the replacement, a mistrial shall be granted. If, after the judge submits the case to the jury, he or she is unable to continue, the case shall proceed before another judge.

(b) Disability of Judge During Nonjury Trial. If a judge before whom trial without jury has commenced is unable to proceed with the trial, a mistrial shall be granted.

RULE 6.12
WITNESSES

(a) Who May Testify. Any person may be a witness in any action or proceeding under these rules except as hereinafter provided or as provided in the Rules of Evidence.

(b) When Excused. A witness subpoenaed to attend in a criminal case is dismissed and excused from further attendance as soon as he or she has given his or her testimony in chief and has been cross-examined thereon, unless either party makes request in open court that the witness remain in attendance; and witness fees will not be allowed any witness after the day on which his or her testimony is given, except when the witness has in open court been required to remain in further attendance.

(c) Persons Incompetent To Testify. The following persons are incompetent to testify: (1) those who are of unsound mind, or intoxicated at the time of their production for examination; and (2) those who do not have the capacity of receiving just impressions of the facts about which they are examined or who do not have the capacity of relating them truly.

This shall not affect any recognized privileges.

(d) Not Excluded on Grounds of Interest. No person offered as a witness shall be excluded from giving evidence by reason of his or her interest in the result of the action, as a party thereto or otherwise, but such interest may be shown to affect his or her credibility.

CrRLJ 6.13
EVIDENCE

(a) Rules of Evidence. The Rules of Evidence are applicable to criminal prosecutions.

(b) Test Reports by Experts.

(1) Generally. The official written report of an expert witness which contains the results of any test of a substance or object which are relevant to an issue in a trial shall be admitted in evidence without further proof or foundation as prima facie evidence of the facts stated in the report if the report bears the following certification:

TEST CERTIFICATION

The undersigned certifies under penalty of perjury that:

1. I performed the test on the (substance) (object) in question;

2. The person from whom I received the (substance) (object) in question is:
_____;

3. The document on which this certificate appears or to which it is attached is a true and complete copy of my official report; and

4. Such document is a report of the results of a test which report and test were made by the undersigned who has the following qualifications and experience:

_____

_____.

_____
Signature

_____
Title

_____
Business Address and Phone

(2) Exclusion of Test Reports. The court shall exclude test reports otherwise admissible under section (b) if:

(i) a copy of the certified report or certificate has not been delivered or mailed to the defendant or the defendant's lawyer at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(ii) in the case of an unrepresented defendant, a copy of this rule in addition to a copy of the certified report or certificate has not been delivered or mailed to the defendant at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(iii) at least 7 days prior to the trial date, or, upon a showing of cause, such lesser time as the court deems proper, the defendant has delivered or mailed a written demand upon the prosecuting authority to produce the expert witness at the trial.

(c) Breathalyzer Maintenance, Simulator Thermometer, BAC Verifier, and Simulator Solution Certificates.

(1) Admission of Certificate. In the absence of a request to produce a Breathalyzer maintenance technician, a BAC Verifier Data Master infrared instrument technician, or the person responsible for preparing or testing simulator solutions made at

least 7 days prior to trial or such lesser time as the court deems proper, certificates substantially in the following forms are admissible in lieu of a state expert witness in any court proceeding held pursuant to RCW 46.61.506 for the purpose of determining whether a person was operating or in actual physical control of a motor vehicle while under the influence of intoxicating liquors:

BREATHALYZER MAINTENANCE AND
CHEMICAL CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am a Breathalyzer technician possessing a valid permit or certificate issued to me by the state toxicologist by virtue of his rules, WAC 448-12 and RCW 46.61.506.

On _____(date) at _____(time) I examined, tested and calibrated a Breathalyzer machine with serial No. _____ using a sealed ampul of chemicals with control No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said machine was, on that date, in proper working order, and that the chemicals in ampuls with the above control number are suitable for use in this machine.

_____
Signature of Technician

Dated: _____

BAC VERIFIER DATA MASTER CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am employed by _____ and am certified by the state toxicologist by virtue of applicable regulations and statutes.

On _____(date) at _____(time) I examined, tested and certified a BAC Verifier Data Master instrument with serial No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said instrument was, on that date, in proper working order.

_____
Signature of Technician

Dated: _____

BAC VERIFIER DATA MASTER SIMULATOR
SOLUTION CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am employed by the Washington State Toxicology Laboratory, and a part of my responsibilities include preparing and testing the simulator solutions for the BAC Verifier Data Master breath test instrument. I possess the following qualifications:

_____

_____.

The simulator solution, Lot Number _____ was prepared in the Washington State Toxicology Laboratory. I examined and tested this solution. It was found to conform to those standards established by the state toxicologist for the certification of simulator solution.

Dated: _____

_____
Signature

BAC DATAMASTER SIMULATOR THERMOMETER CERTIFICATION

I, _____, do certify under penalty of perjury under the laws of the State of Washington that the following is true and correct:

I am employed by the Washington State Patrol and am certified as a Technician by the state toxicologist by virtue of applicable regulations and statutes.

On _____(date) at _____(time) I tested and certified simulator thermometer _____ (serial number) which is installed in simulator _____(serial number) and which is attached to BAC Data Master _____ (serial number). In performing the test I employed a protocol approved by the state toxicologist. I found the thermometer to comply with the standards for accuracy as required by the state toxicologist. The certification of this thermometer is valid for one year from the date of this certification.

_____
Signature of Technician

Dated: _____

Location:_____(city and state)

(2) Machine Not Working Properly--Certificate of Technician. If the technician determines that a Breathalyzer machine or a BAC Verifier Data Master instrument is not in proper working order at the time of examination, the technician shall delete the last paragraph from the appropriate certificate form set forth in section (c)(1) of this rule and shall certify substantially in the following form:

I further certify that said machine was not in proper working order on
_____ (date) at _____M.

I further certify that I repaired or corrected said machine as required on _____ (date) and as of that date at _____M. said machine was again in proper working order (and that the chemicals in ampuls with the above control number are suitable for use in this machine.) (Cross out bracketed language if not applicable.)

Dated: _____

_____
Technician

(3) Filing of Certificates by Clerk. The clerk of each court of limited jurisdiction shall maintain the certificates as a public record.

(d) Speed Measuring Device: Design and Construction Certification.

(1) Admission of Certificate. In the absence of proof of a request to produce an electronic or laser speed measuring device (SMD) expert served on the prosecuting authority and filed with the clerk of the court at least 30 days prior to trial or such lesser time as the court deems proper, a certificate substantially in the following form is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic or laser speed measuring device (SMD) is an issue:

CERTIFICATION CONCERNING DESIGN AND CONSTRUCTION
OF ELECTRONIC SPEED MEASURING DEVICES
AND LASER SPEED MEASURING DEVICES

I, _____, do certify under penalty of perjury as follows:

I am employed with _____ as a _____. I have been employed in such a capacity for _____ years. Part of my duties include supervising the maintenance and repair of all electronic and laser speed measuring devices (SMDs) used by _____ (name of agency).

This agency currently uses the following SMDs:
(List all SMDs used and their manufacturers and identify which SMDs use laser technology.)

I have the following qualifications with respect to the above stated SMDs:

(List all degrees held and any special schooling regarding the SMDs listed above.)

This agency maintains manuals for all of the above stated SMDs. I am personally familiar with those manuals and how each of the SMDs are designed and operated. On _____ (date) testing of the SMDs was performed under my direction. The units were evaluated to meet or exceed existing performance standards. This agency maintains a testing and certification program. This program requires:

(State the program in detail.)

Based upon my education, training, and experience and my knowledge of the SMDs listed above, it is my opinion that each of these electronic pieces of equipment is so designed and constructed as to accurately employ the Doppler effect in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator or, in the case of the laser SMDs, each of these pieces of equipment is so designed and constructed as to accurately employ measurement techniques based on the velocity of light in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator.

_____
Signature

Dated: _____

(e) Continuance. The court at the time of trial shall hear testimony concerning the alleged offense and, if necessary, may continue the proceedings for the purpose of obtaining (1) the maintenance technicians presence for testimony concerning the working order of the Breathalyzer machine and the certification thereof, (2) evidence concerning the working order of the BAC Verifier Data Master instrument and the certification thereof, (3) evidence concerning the preparation of the BAC Verifier Data Master simulator solution and the certification thereof, or (4) evidence concerning an electronic speed measuring device or laser speed measuring device and the certification thereof. If, at the time it is supplied, the evidence is insufficient, a motion to suppress the results of such test or readings shall be granted.

[Amended effective September 1, 1987; September 1, 1998; September 1, 2002.]

RULE 6.14
IMMUNITY

In any case, the court on motion of the prosecuting authority may order that a witness shall not be excused from giving testimony or producing any papers, documents or things, on the ground that such testimony may tend to incriminate or subject the witness to a penalty or forfeiture arising from the commission of a gross misdemeanor, misdemeanor, or traffic infraction; but the witness shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any gross misdemeanor, misdemeanor, or traffic infraction concerning which the witness has been ordered to testify pursuant to this rule. If such testimony may tend to incriminate or subject the witness to a penalty or forfeiture arising from the commission of a felony, immunity may only be sought with the concurrence of the prosecuting authority in whose county the offense occurred. The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or the giving of false evidence.

RULE CrRLJ 6.15
INSTRUCTIONS AND ARGUMENT

(a) Proposed Instructions. Unless otherwise ordered by the court, proposed jury instructions shall be served and filed when a case is called for trial by serving one copy upon the lawyer for each party, by filing one copy with the clerk, and by delivering the original and one additional copy for each party to the trial judge. Additional instructions, which could not be reasonably anticipated, shall be served and filed at any time before the court has instructed the jury. Each proposed instruction shall be on a separate sheet of paper. The original shall not be numbered nor include citations of authority. A court of limited jurisdiction may adopt local rules permitting certain instructions to be requested by number from any published book of instructions.

(b) Objections to Instructions. Before instructing the jury, the court shall supply the lawyers with copies of the proposed instructions, verdict and special finding forms. The court shall afford the lawyers an opportunity in the absence of the jury to object to the giving of any instructions and the refusal to give a requested instruction or submission of a verdict or special finding form. The party objecting shall state the reasons for the objection, identifying the instruction and specifying the particular part of the instruction to be given or refused. The court shall provide the lawyer for each party with a copy of the instructions in final form.

(c) Instructing the Jury and Argument of Counsel. The court shall read the instructions to the jury. The prosecuting authority may then address the jury after which the defense may address the jury followed by the prosecuting authority's rebuttal.

(d) Deliberation. After argument, the jury shall retire to consider the verdict. The jury shall take with it the instructions given, all exhibits received in evidence, and a verdict form or forms.

(e) Questions from Jury During Deliberations.

(1) The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the court’s response and any objections thereto shall be made a part of the record. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury’s request to rehear or replay evidence, but should do so in a way that is least likely to be seen as a comment on the evidence, in a way that is not unfairly prejudicial and in a way that minimizes the possibility that jurors will give undue weight to such evidence. Any additional instruction upon any point of law shall be given in writing.

(2) After jury deliberations have begun, the court shall not instruct the jury in such a way as to suggest the need for agreement, the consequences of no agreement, or the length of time a jury will be required to deliberate.

(f) Several Offenses. The verdict forms for an offense charged or necessarily included in the offense charged or an attempt to commit either the offense charged or any offense necessarily included therein may be submitted to the jury.

[Adopted effective September 1, 1987; amended effective October 1, 2002.]

RULE 6.16
JURY VERDICTS AND FINDINGS

(a) Verdicts.

(1) Several Defendants. If there are two or more defendants, the jury at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if a jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.

(2) Return of Verdict. When all members of the jury agree upon a verdict of guilty or not guilty, the presiding juror shall complete and sign the verdict form and return it to the judge in open court.

(3) Poll of Jurors. When a verdict or special finding is returned and before it is recorded, the jury shall be polled at the request of any party or upon the courts own motion. If at the conclusion of the poll, all of the jurors do not concur, the jury may be directed to retire for further deliberations or may be discharged by the court.

(b) Special Findings. The court may submit to the jury forms for such special findings which may be required or authorized by law. The court shall give such instruction as may be necessary to enable the jury both to make these special findings or verdicts and to render a general verdict. When a special finding is inconsistent with another special finding or with the general verdict, the court may order the jury to retire for further consideration.

RULE 7.1

(RESERVED)

RULE CrRLJ 7.2
SENTENCING

(a) Generally. The court shall state the precise terms of the sentence, which shall include credit for all time spent in custody in connection with the offense.

(b) Procedure at Time of Sentencing. The court shall, immediately after sentencing, unless the judgment and sentence are based on a plea of guilty, advise the defendant: (1) of the right to appeal the conviction pursuant to the RALJ or CrRLJ 9.1; (2) that unless a notice of appeal is filed in the court of limited jurisdiction within 30 days after the entry of the judgment and sentence or order appealed from, the right to appeal is waived; (3) that the notice of appeal must be served on all other parties; (4) that the court clerk will, if requested by the defendant appearing without a lawyer, supply a notice of appeal form; (5) of the defendant's right to a lawyer on appeal, and, if unable to pay the costs thereof, to have a lawyer appointed and portions of the trial record necessary for review prepared at public expense for an appeal; and (6) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. These proceedings shall be made a part of the record.

(c) Sentence. Before imposing sentence, the court shall afford the defendant, and the prosecuting authority, an opportunity to make a statement and to present information in extenuation, mitigation, or aggravation of punishment.

(d) Record. A record of the sentencing proceedings shall be made. The sentencing and judgment records of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy. The record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

(e) Judgment and Sentence.

(1) An electronic judgment and sentence shall be prescribed by the Administrator for the Courts in conjunction with the Judicial Information System Committee (JISC).

(2) A non-electronic judgment and sentence form shall be prescribed by the Administrator for the Courts in conjunction with the Supreme Court Pattern Forms Committee.

(3) Notwithstanding any other statute or rule to the contrary, each judgment and sentence form, either electronic or hard copy, shall be preserved by the court in perpetuity.

[Amended effective September 1, 1991; September 1, 1995; June 4, 1997.]

RULE CrRLJ 7.3
JUDGMENT

A judgment of conviction shall set forth whether the defendant was represented by a lawyer or waived representation by a lawyer, the plea, the verdict or findings, and the adjudication and sentence. The court may order that its sentence include special conditions or requirements, including a specified schedule for the payment of a fine, restitution, or other costs, or the performance of community service. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judge or clerk shall enter the judgment on the record. The judgment and record of the sentencing proceedings of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy. At a minimum, the judgment and record of the sentencing proceedings shall include:

(a) Defendant's name;

(b) Defendant's ID numbers;

(c) The charge, as well as any amendments to the original charge;

(d) Arraignment date;

(e) The plea, and the date entered;

(f) Representation by or waiver of lawyer, as well as date of lawyer's appearance or waiver;

(g) The parties present, including but not limited to the judge, attorneys, prosecutor, defense counsel, witnesses;

(h) Verdict or findings, and the date entered;

(i) Adjudication and sentence, and the date entered;

(j) Conditions or requirements of the sentence, including but not limited to a specified schedule for the payment of a fine, restitution, or other costs, performance of community service, counseling or treatment;

(k) The outcomes of any hearings held on the case, including but not limited to noncompliance hearings, reviews.

The judgment and record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

[Amended effective June 4, 1997.]

RULE 7.4
ARREST OF JUDGMENT

(a) Arrest of Judgment. Judgment may be arrested on the motion of the defendant for the following causes: (1) lack of jurisdiction of the person or offense; (2) the complaint or citation and notice does not charge a crime; or (3) insufficiency of the proof of a material element of the crime.

(b) Time for Motion; Contents of Motion. A motion for arrest of judgment must be served and filed within 5 days after the verdict or decision. The motion for arrest of judgment shall identify the specific reasons in fact and law for each ground on which the motion is based.

(c) New Charges After Arrest of Judgment. When judgment is arrested and there is reasonable ground to believe that the defendant can be convicted of an offense properly charged, the court may order the defendant to be recommitted or released to answer a new complaint or citation and notice. If judgment was arrested because there was no proof of a material element of the crime the defendant shall be discharged.

(d) Rulings on Alternative Motions in Arrest of Judgment or for a New Trial. Whenever a motion in arrest of a judgment and, in the alternative, for a new trial is filed and submitted in any criminal cause tried before a jury, and the court enters an order granting the motion in arrest of judgment, the court shall, at the same time, in the alternative, pass upon and decide in the same order the motion for a new trial. The ruling upon the motion for a new trial shall not become effective unless and until the order granting the motion in arrest of judgment is reversed, vacated, or set aside in the manner provided by law.

RULE 7.5
NEW TRIAL

(a) Grounds for New Trial. The court may, on its own motion or on motion of the defendant, grant a new trial for any one of the following causes when it affirmatively appears that a substantial right of the defendant was materially affected:

(1) Receipt by the jury of any evidence, paper, document or book not allowed by the court;

(2) Misconduct of the prosecution or jury;

(3) Newly discovered evidence material for the defendant, which the defendant could not have discovered with reasonable diligence and produced at the trial;

(4) Accident or surprise;

(5) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial;

(6) Error of law occurring at the trial and objected to at the time by the defendant;

(7) That the verdict or decision is contrary to law and the evidence;

(8) That substantial justice has not been done. When the motion is based on matters outside the record, the facts shall be shown by affidavit.

(b) Time for Motion; Contents of Motion. A motion for new trial must be served and filed within 5 days after the verdict or decision. The motion for a new trial shall identify the specific reasons in fact and law for each ground on which the motion is based.

(c) Time for Affidavits. When a motion for a new trial is based upon affidavits they shall be served with the motion. The prosecuting authority has 5 days after such service within which to serve opposing affidavits. The court may extend the period for submitting affidavits to a time certain for good cause shown or upon stipulation.

(d) Statement of Reasons. In all cases where the court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and fact for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

RULE 7.6
PROBATION

(a) Probation. After conviction of an offense the defendant may be placed on probation as provided by law.

(b) Revocation or Modification of Probation. The court shall not revoke or modify probation except (1) after a hearing in which the defendant shall be present and apprised of the grounds on which such action is proposed, or (2) upon stipulation of the parties. The defendant is entitled to be represented by a lawyer and may be released pursuant to rule 3.2 pending such hearing. A lawyer shall be appointed for a defendant financially unable to obtain one.

RULE 7.7

(RESERVED)

RULE 7.8
RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by the superior court and thereafter may be corrected by order of the superior court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court

may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1)Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5;

(3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) The judgment is void; or

(5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken, and is further subject to RCW 10.73.090, .100, .130, and .140. A motion under this section does not affect the finality of the judgment or suspend its operation.

(c) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion stating the grounds upon which relief is asked, and supported by affidavits setting forth a concise statement of the facts or errors upon which the motion is based.

(2) Initial Consideration. The court may deny the motion without a hearing if the facts alleged in the affidavits do not establish grounds for relief. Otherwise, the court shall enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted.

RULE 8.1
TIME

(a) Computation. Time shall be computed in accordance with CRLJ 6(a).

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. The court may not extend the time for taking any actions under rules 7.4, 7.5, 7.8, and 9.1.

(c) For Motions--Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; except as otherwise provided in rule 7.5, opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time.

RULE 8.2
MOTIONS

Rules 3.5 and 3.6 and CRLJ 7(b) shall govern motions in criminal cases.

CrRLJ 8.3
DISMISSAL

(a) On Motion of Prosecution. The court may, in its discretion, upon motion of the prosecuting authority setting forth the reasons therefor, dismiss a complaint or citation and notice.

(b) On Motion of Court. The court, in the furtherance of justice after notice and hearing, may dismiss any criminal prosecution due to arbitrary action or governmental misconduct when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial. The court shall set forth its reasons in a written order.

(c) On Motion of Defendant for Pretrial Dismissal. The defendant may, prior to trial, move to dismiss a criminal charge due to insufficient evidence establishing a prima facie case of the crime charged.

(1) The defendant's motion shall be in writing and supported by an affidavit or declaration alleging that there are no material disputed facts and setting out the agreed facts, or by a stipulation to facts by both parties. The stipulation, affidavit or declaration may attach and incorporate police reports, witness statements or other material to be considered by the court when deciding the motion to dismiss. Any attached reports shall be redacted if required under the relevant court rules and statutes.

(2) The prosecuting authority may submit affidavits or declarations in opposition to defendant's supporting affidavits or declarations. The affidavits or declarations may attach and incorporate police reports, witness statements or other material to be considered by the court when deciding defendant's motion to dismiss. Any attached reports shall be redacted if required under the relevant court rules and statutes.

(3) The court shall grant the motion if there are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt. In determining defendant's motion, the court shall view all evidence in the light most favorable to the prosecuting authority and the court shall make all reasonable inferences in the light most favorable to the prosecuting authority. The court may not weigh conflicting statements and base its decision on the statement it finds the most credible. The court shall not dismiss a sentence enhancement or aggravating circumstance unless the underlying charge is subject to dismissal under this section. A decision denying a motion to dismiss under this rule is not subject to appeal under RALJ 2.2. A defendant may renew the motion to dismiss if the trial court subsequently rules that some or all of the prosecuting authority's evidence is inadmissible.

(4) If the defendant's motion to dismiss is granted, the court shall enter a written order setting forth the evidence relied upon and conclusions of law. The granting of defendant's motion to dismiss shall be without prejudice.

[Amended effective September 1, 1995; September 1, 2008.]

RULE 8.4
SERVICE, FILING, AND SIGNING OF PAPERS

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint or citation and notice, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, application, designation of record on appeal, and similar paper shall be served upon each of the parties.

(b) Service: How Made.

(1) On Lawyer or Party. Whenever under these rules service is required or permitted to be made upon a party represented by a lawyer the service shall be made upon the lawyer unless service upon the party is ordered by the court. Service upon the lawyer or upon a party shall be made by delivering a copy to the person or by mailing it to the persons last known address. Delivery of a copy within this rule means: handing it to the lawyer or to the party; or leaving it at the persons office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the persons dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(2) Service by Mail.

(i) How Made. CRLJ 5(b)(2)(i) shall govern service by mail.

(ii) Proof of Service by Mail. Proof of service by mail may be by affidavit or certification, under RCW 9A.72.085 or any law amendatory thereof, of the person who mailed the papers, or by written acknowledgment of service.

(c) Filing With Court. The complaint or citation and notice shall be filed as in rule 2.1. All other pleadings required to be served upon a party shall be filed with the court pursuant to CRLJ 5(e).

(d) Bar Association Membership Number. All pleadings, motions, and legal memoranda signed by an attorney shall include the attorneys Washington State Bar Association membership number in the signature block.

(e) Filing by Facsimile. (Reserved. See GR 17--Facsimile Transmission.)

RULE 8.5

(RESERVED)

RULE 8.6
OBJECTIONS AND EXCEPTIONS

CRLJ 46 shall govern objections and exceptions to rulings and orders in criminal cases.

RULE 8.7

(RESERVED)

RULE 8.8
DISCHARGE

Upon acquittal, or whenever the court shall direct any criminal prosecution to be dismissed, the defendant shall be released from custody or conditions of release on such charge and any bail shall be exonerated.

RULE 8.9
DISQUALIFICATION OF JUDGE

(a) Disqualification. In any case pending in any court of limited jurisdiction, unless otherwise provided by law, the judge thereof shall be deemed disqualified to hear and try the case when the judge is in any way interested or prejudiced. The judge may enter an order of disqualification.
(b) Affidavit of Prejudice. The judge shall also enter an order of disqualification under the provisions of this rule if, before the judge makes a discretionary ruling and before the trial is commenced, a party files an affidavit alleging that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge or for other ground provided by law. Only one such affidavit shall be filed on behalf of the same party in the case and the affidavit shall be made as to only one of the judges of the court. All rights to an affidavit of prejudice will be considered waived when filed more than 10 days after the defendant's plea is entered or arraignment is waived, unless the affidavit alleges a particular incident, conversation or utterance by the judge, which was not known to the party within the 10-day period. In multiple judge courts, or when a pro tempore or visiting judge is designated as the judge, the 10-day period shall commence on the date that the party has actual notice of assignment or reassignment to a designated judge.
(c) Transfer. Whenever a judge is disqualified, the judge shall immediately make an order transferring and removing the case to another judge authorized by law to hear the case.

RULE 8.10
CLOSURE OF PROCEEDINGS AND SEALING
OF RECORDS

(a) Proceedings and Records To Be Open. Court proceedings shall be open to the public, and court records denominated public records under ARLJ 9 shall be available for public inspection, unless the court orders closure or sealing, or other restrictions, pursuant to this rule.
(b) Grounds for Closure or Sealing Before Charges Filed. Before charges are filed, the court may order proceedings closed or records sealed only upon a showing that
(1) There is a likelihood of jeopardy to an accused's right to a fair trial; or
(2) There exists a substantial threat to effective law enforcement; or
(3) There exists a substantial threat to the privacy or safety of an

individual; or
(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.
(c) Grounds for Closure or Sealing After Charges Filed. After charges are filed, the court may order proceedings closed or records sealed only upon a showing that
(1) There is a substantial probability of jeopardy to an accused's right to a fair trial; or
(2) There exists a serious and imminent threat to effective law enforcement; or
(3) There exists a serious and imminent threat to the privacy or safety of an individual; or
(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.
(d) Determination. Upon motion and supporting affidavit, the court shall determine whether a proceeding should be closed or records sealed.
(1) The proponent shall state the grounds for the motion with reasonable specificity, consistent with the protection of the interest threatened. Any person present when the motion is made shall be given an opportunity to object to the proposed restriction.
(2) If the motion is made upon grounds set forth in (b)(1) or (c)(1), any person objecting to closure or sealing shall have the burden of suggesting effective alternatives. Otherwise, the proponent shall have the burden of showing that restrictions are necessary.
(e) Order of Closure or Sealing. Upon determining that a proceeding should be closed or records sealed, the court shall promptly thereafter prepare
(1) A transcript of any in camera proceedings; and
(2) An order of closure or sealing; and
(3) Written findings of fact and conclusions of law setting forth with specificity the courts consideration of the issues, including alternative methods suggested. If the order involves the sealing of records, it shall apply for a specific time period and require the proponent to come before the court at a time specified in the order to justify continued sealing.
(f) Other Order. If the court determines that there exists an alternative less restrictive than closure or sealing which will protect the threatened interest, it may issue an appropriate order and shall thereafter prepare the documents specified in section (e).
(g) Exclusion of Witness. This rule shall not apply to circumstances governed by ER 615.
(h) Discovery. This rule shall not apply to discovery procedures governed by rule 4.7.
(i) Disclosure Procedure. Reserved. See ARLJ 9.

RULE 8.11
DISCLOSURE OF RECORDS

Disclosure of records of courts of limited jurisdiction shall be governed by ARLJ 9 and by RCW 10.97.

CrRLJ 8.12
REPORTING TRAFFIC OFFENSES

The court shall upon entry of bail forfeiture or entry of judgment of guilty of a criminal traffic offense forward to the Department of Licensing a copy of the complaint or citation and notice to appear and an abstract of the courts order.

[Adopted effective September 1, 1987; November 21, 2006.]

RULE 9.1
PERFECTING OF APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.
(b) Venue. Appeals shall be to the superior court of the county in which the court of limited jurisdiction is located. The appeal from a district court located in a joint district court district shall be made to the superior court of the county where the offense was alleged to have been committed.

(c) Notice of Appeal. The appeal shall be taken by filing in the court of limited jurisdiction that entered the decision a written notice of appeal containing the address of the appellant and the appellant's lawyer within 30 days after entry of judgment. If a motion for a new trial or for arrest of judgment has been timely made, the notice of appeal shall be filed within 30 days after entry of the order denying the motion. The clerk of the court of limited jurisdiction shall immediately upon the filing of a notice of appeal file a copy of the notice with the superior court. Filing the notice of appeal is the only jurisdictional requirement for an appeal. A party filing a notice of appeal shall also, within the same 30 days, serve a copy of the notice of appeal upon the prosecuting authority. An acknowledgment or affidavit of service shall be filed in the court of limited jurisdiction.

(d) The Record. Within 14 days after the filing of the notice of appeal, the clerk of the court of limited jurisdiction shall file with the clerk of the superior court in which the appeal is pending a transcript duly certified by the court of limited jurisdiction, furnished without charge, containing a copy of all written pleadings and docket entries and including exhibits introduced into evidence in the trial before the court of limited jurisdiction. A cash bail or bail bond filed in the lower court shall at the same time be transferred to the superior court, there to be held pending disposition of the appeal. Evidence not offered in trial in the superior court shall be returned to the court of limited jurisdiction.

(e) Notice of Filing. The court of limited jurisdiction shall give prompt notice of the filing or mailing of the transcript to the respondent and appellant, giving such particulars as date of filing or mailing and superior court file number if known. Where the court of limited jurisdiction is not located at the county courthouse, such filing may be made by certified mail, in which case the court of limited jurisdiction shall advise appellant and respondent of the date of mailing.

(f) Noting for Trial. Within 21 days after the transcript is filed, the superior court shall set a trial date and notify the parties of the date.

(Amended September 1, 1996)

RULE 9.2
IMPOSITION OF SENTENCE PENDING APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Stay of Sentence. All sentences shall be stayed if an appeal is taken and the defendant posts cash bail or a bond to the state which shall be deposited with the clerk of the court of limited jurisdiction, in such reasonable sum with sureties as the lower court judge may require, upon the following conditions: that the defendant will diligently prosecute the appeal, and will appear at the court appealed to and comply with any sentence of the superior court, and will, if the appeal is dismissed for any reason, comply with the sentence of the lower court.

(c) Imposition of Sentence. If the appellant fails to provide security, sentence imposed shall be executed.

RULE 9.3
PROSECUTION OF APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Failure To Certify Transcript. If the lower court fails, neglects or refuses to make and certify the transcript within the time allowed, the appellant may make application to the superior court not later than 21 days after the filing of the notice of appeal and the superior court shall issue an order to make and certify the transcript.

(c) Dismissal for Want of Prosecution. Upon dismissal of the appeal for failure of appellant to proceed diligently with the appeal as required, or for any other cause, the judgment of the lower court shall be enforced by the judge thereof. If, at the time of such dismissal, cash deposit or appeal bond as required has been furnished and is in the custody of the superior court, the same shall be returned to the lower court. The lower court shall have power to forfeit the cash bail or appeal bond and issue execution thereon for breach of any condition under which it is furnished.

(d) Dismissal on Clerks Motion. In all appeals from courts of limited jurisdiction wherein there has been no action of record during the 90 days just past, the clerk of the superior court shall mail notice to the appellant and the lawyers at the addresses contained in the notice of appeal that such appeal will be dismissed by the court for want of prosecution unless, within 30 days following such mailing, an application

in writing is made to the court and good cause shown why it should be continued as a pending case. If the appeal is dismissed, the clerk of the court will proceed as in section (c).

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ)

TABLE OF RULES

TITLE 1
GENERAL PROVISIONS

TITLE 2
PRELIMINARY PROCEEDINGS

TITLE 3
PROCEDURE AT HEARINGS

TITLE 4
DISPOSITION PROCEDURES

TITLE 5
APPEALS

TITLE 6
MISCELLANEOUS PROVISIONS

RULE 1.1
SCOPE AND PURPOSE OF RULES

(a) Scope of Rules. These rules govern the procedure in courts of limited jurisdiction for all cases involving "infractions". Infractions are noncriminal violations of law defined by statute.

(b) Purpose. These rules shall be construed to secure the just, speedy, and inexpensive determination of every infraction case.

(c) Effect of Other Law. These rules supersede all conflicting rules and statutes covering procedure for infractions unless a rule indicates a statute or rule controls. Provisions of statute or rule not inconsistent with these rules shall remain in effect.

DEFINITIONS

For the purposes of these rules:

(a) Infraction Case. "Infraction case" means a civil proceeding initiated in a court of limited jurisdiction pursuant to a statute that authorizes offenses to be punished as infractions.

(b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when issued and filed pursuant to statute and these rules.

(c) Defendant. "Defendant" means a person cited for an infraction, a registered owner of a vehicle cited for a parking infraction, or the person who responds to the parking infraction or the requests of a hearing.

(d) Court. "Court" means a court of limited jurisdiction organized pursuant to RCW Title 3, RCW Title 35, or RCW Title 35A.

(e) Judgment. "Judgment" means any final decision in an infraction case, including, but not limited to, a finding entered after a hearing governed by these rules or after payment of a monetary penalty in lieu of a hearing.

(f) Plaintiff. "Plaintiff" means the governmental unit issuing the notice of infraction, including, but not limited to, the state, a county, or a municipality.

(g) Department. "Department" means the Washington State Department of Licensing.

(h) Lawyer. "Lawyer" means any person authorized by Supreme Court rule to practice law.

(i) Statute. "Statute" means any state statute, local or county ordinance, resolution, or regulation, or agency regulation.

(j) Citing Officer. "Citing officer" means a law enforcement officer or other official authorized by law to issue a notice of infraction.

(k) Prosecuting Authority. "Prosecuting authority" includes prosecuting attorneys, city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute.

(l) Judge. "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized to preside over infraction cases.

(m) Community Restitution. "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the defendant.

[Adopted effective September 1, 1992; amended effective June 2, 1998; amended effective January 3, 2006.]

RULE 1.3
LOCAL COURT RULES

(a) Adoption. Each court may adopt special infraction rules not inconsistent with these general rules.
(b) Format. The numbering system and format of local rules shall conform to these rules.
(c) Filing. Local rules become effective only after they are filed with the Administrator for the Courts in accordance with GR 7.

IRLJ 2.1
NOTICE OF INFRACTION

(a) Infraction Form Prescribed or approved by the Administrative Office of the Courts. Infraction cases shall be filed on a form entitled "Notice of Infraction" prescribed by the Administrative Office of the Courts; except that the form used to file cases alleging the commission of a parking, standing or

stopping infraction shall be approved by the Administrative Office of the Courts. Notice of Infraction forms prescribed or approved by the Administrative Office of the Courts are presumed valid and shall not be deemed insufficient by reason of defects or imperfections which do not prejudice substantial rights of the defendant.

(b) Contents. The notice of infraction shall contain the following information on the copy given to the defendant, except the information required by subsections (2) is not required on a notice of infraction alleging the commission of a parking, standing, or stopping infraction:

(1) The name, address, and phone number of the court where the notice of infraction is to be filed;

(2) The name, address, date of birth, sex, physical characteristics, and, for a notice of traffic infraction, the operator's license number of the defendant;

(3) For a notice of traffic infraction, the vehicle make, year, model, style, license number, and state in which licensed;

(4) The infraction which the defendant is alleged to have committed and the accompanying statutory citation or ordinance number, the date, time, and place the infraction occurred, the date the notice of infraction was issued, and the name and, if applicable, the number of the citing officer;

(5) A statement that the defendant must respond to the notice of infraction within 15 days of issuance;

(6) A space for entry of the monetary penalty which respondent may pay in lieu of appearing in court;

(7) A statement that a mailed response must be mailed not later than midnight on the day the response is due;
(8) The statements required by RCW 46.63.060 or other applicable statute; and

(9) Any additional information determined necessary by the Administrator for the Courts.

[Adopted effective September 1, 1992; amended effective June 2, 1998; amended effective January 3, 2006; November 21, 2006; amended effective May 6, 2008.]

RULE IRLJ 2.2
INITIATION OF INFRACTION CASES

(a) Generally. An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this rule. An infraction is issued on the date the infraction is signed by the citing officer or prosecuting authority.

(b) Who May Issue. A notice of infraction may be issued, upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:

(1) By a citing officer. The infraction need not have been committed in the officers presence, except as provided by statute;

(2) By the prosecuting authority.

(c) Service of Notice. A notice of infraction may be served either by:

(1) The citing officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance;

(2) The citing officer affixing to a vehicle in a conspicuous place the notice of a traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

(3) The citing officer or the prosecuting authority filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

(d) Filing of Notice. When a notice of infraction has been issued, the notice shall be filed with a court having jurisdiction over the infraction or with a violations bureau subject to such courts supervision. The notice must be filed within five days of issuance of the notice, excluding Saturdays, Sundays, and holidays. In the absence of good cause shown, a notice of infraction not filed within the time limits of this section shall, upon motion, be dismissed with prejudice.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1999; amended effective January 3, 2006.]

RULE 2.3
VENUE

Except as otherwise specifically provided by statute, an infraction case shall be brought in the district court district or the municipality where the infraction occurred. If a notice of infraction is filed in a court which is not the proper venue, the notice shall be dismissed without prejudice on motion of either party.

RULE IRLJ 2.4
RESPONSE TO NOTICE

(a) Generally. A person who has been served with a notice of infraction must respond to the notice within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.

(b) Alternatives. A person may respond to a notice of infraction by:

(1) Paying the amount of the monetary penalty in accordance with applicable law, in which case the court shall enter a judgment that the defendant has committed the infraction;

(2) Contesting the determination that an infraction occurred by requesting a hearing in accordance with applicable law;

(3) Requesting a hearing to explain mitigating circumstances surrounding the commission of the infraction in accordance with applicable law; or

(4) Submitting a written statement either contesting the infraction or explaining mitigating circumstances, if this alternative is authorized by local court rule. The statement shall contain the person's promise to pay the monetary penalty authorized by law if the infraction is found to be committed. For contested hearing the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise that if it is determined that I committed the infraction for which I was cited, I will pay the monetary penalty authorized by law and assessed by the court. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____ _____
(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.)

For mitigation hearings, the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____ _____
(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.

(c) Method of Response. A person may respond to a notice of infraction either personally, or if allowed by local rule by mail or by e-mail. If the response is mailed or e-mailed, it must be postmarked or e-mailed not later than midnight of the day the response is due.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE IRLJ 2.5
FAILURE TO RESPOND

If the defendant fails to respond to a notice of infraction, the court shall enter an order finding that the defendant has committed the infraction, shall assess any monetary penalties provided for by law, and, in the case of a traffic infraction, shall notify the Department of the defendants failure to respond in accordance with RCW 46.20.270.

[Adopted effective September 1, 1992.]

RULE 2.6
SCHEDULING OF HEARINGS

(a) Contested Hearings.

(1) Except as provided in sections (1)(i) and (ii), upon receipt of a response submitted pursuant to rule 2.4(b)(2), the court shall schedule a hearing to determine whether the defendant committed the infraction. The hearing shall be scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside.

(i) If authorized by local court rule, a defendant who requests a contested hearing may first be scheduled for a prehearing conference, which shall be scheduled for not less than 14 days from the date the written notice of the hearing is sent by the court nor more than 45 days from the date of the notice of infraction or the date a default judgment is set aside, unless otherwise agreed by the defendant in writing.

(ii) The prehearing conference may be waived by the defendant in writing if the waiver is received by the court before the time set for the prehearing conference. If the prehearing conference is waived, the case will be set for contested hearing. The contested hearing shall be scheduled for not more than 90 days from the date of the prehearing conference or, if the prehearing conference is waived, from the date the waiver of the prehearing conference is received by the court.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 21 days of the receipt of the request for a hearing. The notice of the hearing shall also include statements advising the defendant of the defendant's rights at the hearing, how the defendant may request that witnesses be subpoenaed, and that failure to appear may be a crime for which the defendant may be arrested, and, in a traffic infraction case, the defendant's privilege to operate a motor vehicle may be suspended. If a local rule is adopted implementing sections (a)(1)(i) and (ii), the court shall advise the defendant in the notice of the defendant's right to waive the prehearing conference.

(3) The court may schedule the hearing on a contested infraction for the same time as the hearing on another infraction alleged to have been committed by the defendant. The court may schedule the hearing on a contested infraction for the same time as the trial on a misdemeanor arising out of the same occurrence as the infraction.

(4) The infraction may be dismissed upon a showing of prejudice if the court does not send a defendant written notice

of a hearing within 21 days of receipt of the request for a hearing.

(b) Mitigation Hearings.

(1) Upon receipt of a response submitted pursuant to rule 2.4(b)(3) the court shall schedule a hearing to determine whether there were mitigating circumstances surrounding the commission of the infraction. The hearing shall be scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside, unless otherwise agreed by the defendant in writing.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 21 days of the request for a hearing. The notice shall also include statements advising the defendant of the defendant's rights at the hearing and stating that failure to appear may be a crime for which the defendant may be arrested, and, in a traffic infraction case, the defendant's privilege to operate a motor vehicle may be suspended.

(3) The court may schedule the mitigation hearing for the same time as the mitigation hearing on another infraction alleged to have been committed by the defendant.

(c) Decisions on Written Statements. If the court has adopted a local rule authorizing decisions on written statements submitted by mail, or e-mail, it shall, upon receipt of a statement pursuant to rule 2.4(b)(4), consider the case in accordance with rule 3.5. The requirements of GR 30.5 are not applicable to e-mail statements submitted pursuant to rule 2.4(b)(4). The court is not required to notify the parties of a date for the examination of the statements.

(d) Objection to Hearing Date. A defendant who objects to the hearing date set by the court upon the ground that it is not within the time limits prescribed by this rule shall file with the court and serve upon the prosecuting authority a written motion for a speedy hearing date within 10 days after the notice of hearing is mailed or otherwise given to the defendant. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a hearing commenced on such a date is not within the time limits prescribed by this rule. The written notice of the hearing date shall contain a copy of IRLJ 2.6(d).

(e) Time for Hearing; Effect of Delay or Continuances. A motion for dismissal for the failure to hold a hearing within the time period provided by this rule shall not be granted if the failure to hold the hearing was attributable to the defendant or the defendant's counsel.

(f) Dismissal With Prejudice. An infraction not brought to hearing within the time period provided by this rule shall, upon motion, be dismissed with prejudice.

(g) Change of Judge. The provisions of CRLJ 40(f) apply.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1998; amended effective January 3, 2006.]

RULE IRLJ 3.1
CONTESTED HEARINGS--PRELIMINARY PROCEEDINGS

(a) Subpoena. The defendant and the plaintiff may subpoena witnesses necessary for the presentation of their respective cases. Witnesses should be served at least 7 days before the hearing. The subpoena may be issued by a judge, court commissioner, or clerk of the court or by a party's lawyer. If a party's lawyer issues a subpoena, a copy shall be filed with the court and with the office of the prosecuting authority assigned to the court in which the infraction is filed on the same day it is sent out for service. A request that an officer appear at a contested hearing pursuant to rule 3.3(c) shall be filed on a separate pleading. A subpoena may be directed for service within their jurisdiction to the sheriff of any county or any peace officer of any municipality in the state in which the witness may be or it may be served as provided in CR 45(c), or it may be served by first-class mail, postage prepaid, sent to the witnesses' last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail. If the subpoena is for a witness outside the county, a judge must approve of the subpoena.

(b) Discovery. Upon written demand of the defendant at least 14 days before a contested hearing, filed with the court and served on the office of the prosecuting authority assigned to the court in which the infraction is filed, the plaintiff's lawyer shall at least 7 days before the hearing provide the defendant or the defendant's lawyer with a copy of the citing officer's sworn statement and with the names of any witnesses not identified in the citing officer's sworn statement. If the prosecuting authority provides the citing officer's sworn statement less than 7 days before the hearing but not later than one day before the hearing, the citing officer's sworn statement shall be suppressed only upon a showing of prejudice in the presentation of the defendant's case. If the prosecuting authority, without reasonable excuse or justification, fails to provide the citing officer's sworn statement, the statement shall be suppressed. No other discovery shall be required. Neither party is precluded from investigating the case, and neither party shall impede another party's investigation. A request for discovery pursuant to this section shall be filed on a separate pleading.

(c) Amendment of Notice. The court may permit a notice of infraction to be amended at any time before judgment if no additional or different infraction is charged, and if substantial rights of the defendant are not thereby prejudiced. A continuance shall be granted if the defendant satisfies the court that the additional time is needed to defend against the amended notice of infraction.

(d) Sufficiency. No notice of infraction shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific infraction which the defendant is alleged to have committed, nor by reason of defects or imperfections which do not tend to prejudice substantial rights of the defendant.

Adopted as JTIR effective January 1, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective January 2, 1997; amended effective January 3, 2006; January 2, 2007.]

RULE 3.2
FAILURE TO APPEAR

(a) Entry of Judgment. If the defendant fails to appear at a requested hearing the court shall enter judgment against the defendant finding that the defendant has committed the infraction and assessing against the defendant any monetary penalties provided by law. A judgment upon a failure to appear shall not be entered if it appears to the court from the papers on file that the infraction case was brought in an improper court.

(b) Setting Aside Judgment Upon Failure To Appear. For good cause shown and upon terms the court deems just, the court may set aside a judgment entered upon a failure to appear in accordance with CRLJ 60(b).

RULE IRLJ 3.3
PROCEDURE AT CONTESTED HEARING

(a) Generally. The court shall conduct the hearing for contesting the notice of infraction on the record in accordance with applicable law.

(b) Representation by Lawyer. At a contested hearing, the plaintiff shall be represented by a lawyer representative of the prosecuting authority when prescribed by local court rule. The defendant may be represented by a lawyer.

(c) Rules of Evidence. The Rules of Evidence and statutes that relate to evidence in infraction cases shall apply to contested hearings. The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing, unless the defendant has caused the officer to be served with a subpoena to appear in accordance with instructions from the court issued pursuant to rule 2.6(a)(2).

(d) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of the evidence that the defendant committed the infraction. If the court finds the infraction was committed, it shall enter an appropriate order on its records. If the court finds the infraction was not committed, it shall enter an order dismissing the case.

(e) Disposition. If the court determines that the infraction has been committed, it may assess a monetary penalty against the defendant. The monetary penalty assessed may not exceed the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than 1 year.

[Adopted as JTIR effective January 1, 1981; amended effective March 20, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective January 3, 2006.]

RULE IRLJ 3.4
HEARING ON MITIGATING CIRCUMSTANCES

(a) Generally. The court shall conduct the hearing concerning mitigating circumstances in accordance with applicable law.

(b) Procedure at Hearing. The court shall hold an informal hearing which shall not be governed by the Rules of Evidence. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the judge, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. The plaintiff and the defendant may each be represented by a lawyer. The defendant may present witnesses, but they may not be compelled to attend.

(c) Disposition. The court shall determine whether the defendants explanation of the events justifies reduction of the monetary penalty. The court shall enter an order finding the defendant committed the infraction and may assess a monetary penalty. The court may not impose a penalty in excess of the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than 1 year.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE IRLJ 3.5
DECISION ON WRITTEN STATEMENTS
(Local Option)

(a) Contested Hearings. The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.

(1) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.

(2) Disposition. If the court determines that the infraction has been committed, it may assess a penalty in accordance with rule 3.3.

(3) Notice to Parties. The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.

(4) No Appeal Permitted. There shall be no appeal from a decision on written statements.

(b) Mitigation Hearings. Mitigation hearings based upon written statements may be held in chambers.

[Adopted as JTIR effective January 1, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective January 3, 2006.]

IRLJ 4.1
NOTIFICATION TO DEPARTMENT OF LICENSING OF TRAFFIC INFRACTION

(a) Generally. Upon entry of judgment that a traffic infraction was committed the court shall forward to the Department of Licensing a copy of the notice of traffic infraction and an abstract of the courts order. Courts may forward case disposition information to the Department of Licensing via electronic means according to procedures established by the Department and the Administrator for the Courts.

(b) Parking, Standing, Stopping, or Pedestrian Infractions. The court shall not notify the Department of a parking, standing, stopping, or pedestrian infraction, except as allowed by RCW 46.20.270(3).

(c) Notice to Department When Failure To Appear Set Aside. If a judgment for a failure to appear in a traffic infraction case has been set aside, the Department shall be notified that it has been set aside and of the final disposition of the infraction upon entry of judgment.

[Adopted effective September 1, 1992; November 21, 2006.]

RULE IRLJ 4.2
FAILURE TO PAY OR COMPLETE COMMUNITY RESTITUTION FOR TRAFFIC INFRACTION

(a) Failure To Pay or Complete Community Restitution. Unless the traffic infraction is a parking, standing, stopping, or pedestrian infraction, the court shall notify the Department within 10 days:

(1) If the defendant fails to pay the monetary penalty assessed after a hearing to contest the traffic infraction or a hearing to explain mitigating circumstances, or after a decision on written statements, if authorized by local court rule, or

(2) If the defendant fails to meet a time payment authorized by the court or fails to complete community restitution approved by the court.

(b) Notice to Department. The notice to the Department shall be in the form prescribed by the Department.

(c) Removal of the Failure To Pay or Complete Community Restitution. When the defendant has paid all monetary penalties owing, including completion of community restitution, the court shall notify the Department within 10 days of payment or of completion of community restitution on a form prescribed by the Department.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE 5.1
WHAT ORDERS MAY BE APPEALED

A defendant may appeal a judgment entered after a contested hearing finding that the defendant has committed the infraction. The plaintiff may appeal a decision which in effect abates, discontinues, or determines the case other than by a judgment that the defendant has not committed an infraction. No other orders or judgments are appealable by either party.

RULE 5.2
APPEAL TO SUPERIOR COURT

An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. Under RALJ 1.1 the appeal from some courts is an appeal for error on the record, and the appeal from other courts is conducted as a trial de novo. The procedures for an appeal for error on the record are defined by RALJ. The procedures for a trial de novo are defined by CRLJ 73 and 75.

RULE 6.1
TIME

Time shall be computed or enlarged as provided in CRLJ 6, except that the time in which to respond to the notice of infraction under rule 2.4 and the time in which to file an appeal may not be enlarged.

6.2 MONETARY PENALTY SCHEDULE FOR TRAFFIC INFRACTIONS (IN PDF FORMAT)

The contents of this item are only available on-line.

RULE 6.3
TITLE AND CITATION OF RULES

These rules may be known and cited as Infraction Rules for Courts of Limited Jurisdiction. IRLJ is the official abbreviation.

RULE 6.4
EFFECTIVE DATE

These rules shall apply to all infraction cases in which the infraction occurred on or after September 1, 1992.

RULE 6.5
RULES SUPERSEDED

The Justice Court Traffic Infraction Rules originally effective January 1, 1981, are superseded by these rules, except that the Justice Court Traffic Infraction Rules shall be applicable to any traffic offense occurring before September 1, 1992.

IRLJ 6.6
SPEED MEASURING DEVICE: DESIGN AND CONSTRUCTION
CERTIFICATION

(a) In General. This rule applies only to contested hearings in traffic infraction cases.

(b) Speed Measuring Device Certificate; Form. In the absence of proof of a request on a separate pleading to produce an electronic or laser speed measuring device (SMD) expert served on the prosecuting authority and filed with the clerk of the court at least 30 days prior to trial or such lesser time as the court deems proper, a certificate in substantially the following form is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic or laser speed measuring device (SMD) is an issue:

CERTIFICATION CONCERNING DESIGN AND CONSTRUCTION
OF ELECTRONIC SPEED MEASURING DEVICES OR LASER
SPEED MEASURING DEVICES

I, _____ do certify under penalty of perjury as follows:

I am employed with _____ as a _____. I have been employed in such a capacity for _____ years. Part of my duties include supervising the maintenance and repair of all electronic and laser speed measuring devices (SMD's) used by _____ (name of agency).

This agency currently uses the following SMD's:

(List all SMD's used and their manufacturers and identify which SMDs use laser technology.)

I have the following qualifications with respect to the above stated SMD's:

(List all degrees held and any special schooling regarding the SMD's listed above.)

This agency maintains manuals for all of the above stated SMD's. I am personally familiar with those manuals and how each of the SMD's are designed and operated. On _____ (date) testing of the SMD's was performed under my direction. The units were evaluated to meet or exceed existing performance standards. This agency maintains a testing and certification program. This program requires:

(State the program in detail.)

Based upon my education, training, and experience and my knowledge of the SMD's listed above, it is my opinion that each of these electronic pieces of equipment is so designed and constructed as to accurately employ the Doppler effect in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator or, in the case of the laser SMDs, each of these pieces of equipment is so designed and constructed as to accurately employ measurement techniques based on the velocity of light in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator.

_____
(Signature)

Dated: _____

(c) Continuance. The court at the time of the formal hearing shall hear testimony concerning the infraction and, if necessary, may continue the proceedings for the purpose of obtaining evidence concerning an electronic speed measuring device and the certification thereof. If, at the time it is supplied, the evidence is insufficient, a motion to suppress the readings of such device shall be granted.

(d) Maintaining Certificates as Public Records. Any certificate, affidavit or foundational evidentiary document allowed or required by this rule can be filed with the court and maintained by the court as a public record. The records will be available for inspection by the public. Copies will be provided on request. The court may charge any allowable copying fees. The records are available without a formal request for discovery. The court is entitled to take judicial notice of the fact that the document has been filed with the court. Evidence will not be suppressed merely because there is not a representative of the prosecuting authority present who actually offers the document. Evidence shall be suppressed pursuant to subsection (c) of this rule if the evidence in the certificate, affidavit or document is insufficient, or if it has not been filed as required.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective October 31, 2000; amended effective January 3, 2006.]

RULE IRLJ 6.7
IDENTITY CHALLENGES AND RELIEF FROM JUDGMENT

(a) Relief from Judgment. A motion to waive or suspend a fine, or to convert a penalty to community restitution, or to vacate a judgment is governed by CRLJ 60(b).

(b) Identity Challenge.

(1) Right Granted. In addition to the rights granted defendants pursuant to rule 6.7(a), a defendant may move to vacate a judgment that was entered after a failure to respond to a notice of infraction on the basis that he or she was mistakenly identified as the person who allegedly committed the infraction.

(2) Identity Affidavit. A defendant moving to vacate a judgment for mistaken identification shall file an affidavit or certification under RCW 9A.72.085 with the court in which the infraction was found committed and with the office of the prosecuting authority assigned to the court stating that he or she could not be the person identified by the citing officer as having committed the infraction, citing a factual basis for the assertion and stating that he or she was not served with the notice of infraction.

(3) Adjudication Pending Hearing. The court may, at its discretion, set aside the default judgment pending the hearing.

(4) Scheduling of Hearings. An identification hearing shall be scheduled for not less than 14 days and not more than 120 days from the date an identity affidavit is filed unless otherwise agreed by the defendant. The court shall send the defendant written notice of the time, place and date of the hearing within 28 days of the receipt of the request for hearing.

(5) Hearing Procedure. The court may require the presence of the defendant at the scheduled hearing. At the hearing, identification may be established by methods other than direct identification in court.

(6) Disposition. If the court determines that the named defendant was the person identified by the citing officer as the person who committed the infraction or was served with the notice of infraction, the infraction shall remain committed or be re-adjudicated as committed.

[Adopted effective September 1, 1994; amended effective January 3, 2006; amended effective February 2, 2006.]